CIVIL MISCELLANEOUS

Before Tek Chand, J.

BHAGWAT PARSHAD,—*Petitioner*

versus

INSPECTOR-GENERAL OF POLICE, PUNJAB, AND OTHERS,—*Respondents.*

Civil Writ No. 756 of 1966

August 1, 1967

Punjab Police Rules, 1934 (*Volume II*), *Chapter XVI, Rule* 16.2(1)—*Interpretation of—'Misconduct', 'grave', 'gravest acts of misconduct'—Meaning of—Interpretation of Statutes—Superlative degree—When used—Intention of Legislature—When prevails—General words—Meanings of—When expanded or restricted—Statute—General purposes of—When an aid to interpretation—Constitution of India* (1950)—*Articles* 311 *and* 326—*Order of punishment passed by heads of the departments and superior police officers—When can be interfered with—Writ of* certiorari—*When to be issued.*

Held, that the words 'gravest acts of misconduct" in Rule 16.2 (1) of the Punjab Police Rules, 1934 (Volume II), Chapter XVI, do not necessarily mean a plurality of acts of misconduct. In order to give effect to the legislative intent, the words in plural number may be construed to include the singular; and the words importing the singular only, may be applied to plurality of acts, things or persons. In order to gauge gravity of misconduct, what matters is not frequency, as obliquity or delinquency.

Held, that the word 'Misconduct' is a generic term and means "to conduct amiss; to mismanage; wrong or improper conduct; bad behaviour, unlawful behaviour or conduct." It includes malfeasance, misdemeanour, delinquency and offence, but does not necessarily simply corruption or criminal intent.

Held, that the word "grave" is used in many senses and implies seriousness, importance, weight, etc. There is, however, a distinction between misconduct and grave misconduct. The adjective 'grave' in this context makes the character of the conduct, serious or very serious. The words "gravest acts of misconduct" are incapable of definition. One has to apply one's mind to the words and to give a meaning to each of them in the light of the actual deed, situation and circumstances; 'Misconduct' in order to earn the epithet of gravity has to be gross or flagrant. Consequently the degree of misconduct to justify dismissal has to be higher or more serious. "Gravest" is the highest degree of misdeed as compared to what is just "grave".

Held, that superlative degree is used to denote the highest or maximum degree in a given aggregate, or simply to indicate a supreme or very high degree without definite comparison. Even in the case of superlative degrees of misconduct, there are grades and degrees. The use of superlative degree is intended to indicate a supereminent or a very high degree of misconduct and not that the degree should be so high or so low as cannot be outclassed or excelled. Superlative is often used where the intention is to mean only a very high degree. The use of superlative is one of the modes of laying stress on a particular requirement. The superlative degree, in relation to material things may admit of arithmetical accuracy in order to express the highest degree of the quality or attribute indicated in the adjective or adverb used. In the realm of the non-material or the notional, in particular in relation to thought, action, conduct or to mental qualities, the superlative is used in an exaggerating, heightening or hyperbolical sense, or in order to indicate simply a high degree of the quality mentioned. From the grammatical point of view the use of the superlative degree in order to emphasise a particular quality without intending that it cannot be surpassed, is permissive.

Held, that effect must be given, where possible, to every word, clause and sentence of a statute. It is equally true that a statute is to be construed so that effect is given to all its provisions and nothing is to be deemed superfluous or insignificant. But the literal interpretation of the words does not prevail if it creates a result contrary to the apparent intention of the legislature and if the words are sufficiently flexible, to admit of a construction which will effectuate the legislative intention. The intention must prevail over letter, the letter, if possible, must be read so as to conform to the spirit of the Act. In quest of the intention of the legislature, words or clauses may be given enlarged or restricted meaning.

Held, that the rules of grammar are ordinarily applied for the purpose of ascertaining the meaning of a statute. They are, however, not controlling, when the legislative intention would be defeated. In construing the words of a statute the Courts adhere to the plain common sense meaning of the language rather than apply refined and technical rules of grammatical construction. Statutes are construed primarily with an eye to legislative intent rather than with a view to look for niceties and refinements of grammar. The general purpose of a statute is more important aid to meaning than any rule which grammar may lay down.

Held, that the general words should receive a general construction and the meaning may in an appropriate case be expanded or restricted with a view to see that construction does not lead to injustice, oppression or to an absurd consequence. It leads to an absurd conclusion if one were to confine the passing of an order of dismissal in cases of misconduct, the gravity of which cannot be transcended.

Held, that the officers of the Police Department are charged with the duty of maintaining and observing discipline. As to the standard of discipline required

to be enforced in their case the judgment of their superior officers deserves to be respected and should not be lightly interfered with. The police force is required to discharge highly responsible and onerous duties for maintenance of law and order, and for other purposes essential to the life of the community. These duties from their very nature have to be of an exacting nature. The result of laxity in conduct, or infringement of rules of discipline can undermine the optimum usefulness of the force. Moreover, it is for the police officers who judge the infraction of the police rules to determine the seriousness of the misconduct and to decide upon the suitability of the punishment. It will not be within the ambit of the powers of High Court, when petitioned to issue the extraordinary writs of *certiorai, Mandamus* etc. to interfere with the discretion of the Health of the Departments when it has not been exercised wantonly or arbitrarily. These are well settled limitations which High Courts impose upon themselves when exercising the extraordinary jurisdiction.

Held, that the condition necessary for the issuance of a writ of *certiorari* is, that the order of the inferior tribunal suffers from an error which is apparent on the face of the record, or, in the exercise of its jurisdiction, the tribunal has acted illegally or arbitrarily. When the evidence has been considered by the tribunal, the conclusion drawn from its appraisal cannot be reopened. No error of fact will be corrected by the High Court, when exercising its supervisory jurisdiction. It is not permissible to advance the argument, that the evidence adduced before the tribunal was insufficient or inadequate to sustain the impugned finding.

Petition under Articles 226/227 of the Constitution of India, praying that a writ of certiorari or any other appropriate writ, order or direction be issued quashing the orders, dated 8th March, 1966, 25th July, 1965 and 4th March, 1965, respectively passed by the respondents.

R. C. Dogra and R. N. Narula, Advocates, for the Petitioner.

Abnasha Singh, Advocate for Advocate-General, Punjab and P. S. Jain, Advocate for Advocate-General, Haryana, for the Respondents.

Order

Tek Chand, J.—Bhagwat Prasad petitioner, Constable No. 1751, Police Lines, Ambala, has filed this writ petition praying that the order of his dismissal be quashed.

On 3rd of January, 1965 he was posted in the Police Lines, Ambala, and when off duty was alleged to have taken liquor along with Constable Ram Pal. At about 10 p.m. in Barrack No. 1, Ram

Pal, Constable No. 1669, had abused Kuldip Raj, Constable No. 846. It was alleged that the petitioner was under the influence of drink and was noisy and did not desist even when told to do so by Foot Constable Kuldip Raj. Kuldip Raj reported to Nanak Chand Reserve Inspector about the misbehaviour of the petitioner and of Ram Pal. It was about 10.30 p.m. that the Reserve Inspector along with a Head Constable and a Foot Constable came to the barrack and found Ram Pal, absent. The petitioner was in his bed and the Reserve Inspector asked him to accompany him to the Police doctor in the Police Lines. The doctor examined the petitioner and was of the view that he had taken liquor. The same night the matter was reported to the Superintendent of Police, Ambala. He deputed Sub-Inspector Basant Singh to make an inquiry and the latter submitted his report to the Superintendent of Police on 12th of February, 1965. According to Sub-Inspector Basant Singh, the petitioner and also Constable Ram Pal were guilty of having taken liquor and creating rowdyism under its influence in the Police Lines premises. The report was considered by the Superintendent of Police, who passed a detailed order on 4th of March, 1965. He came to the conclusion that Bhagwat Prasad, petitioner had committed grave misconduct and in his view if Police Officers in Police Lines were allowed to drink, that would be the end of all discipline in the Police Force. The Superintendent of Police observed that the gravity of the misconduct of the petitioner was "of the most reprehensible nature" for which there could be only one punishment, namely, dismissal from service. He accepted the testimony of Dr. Chaman Lal, in charge Police Hospital, Ambala, as to the petitioner having been under the influence of drink. The statements of other prosecution witnesses were also considered. The defence of the petitioner was that he had pain in his chest and teeth and had gone to a private practitioner, Dr. Arjan Dev, who had applied chloroform spirit on his aching tooth. The Superintendent of Police rejected this plea and commented that the petitioner, if actually in pain, ought to have consulted the Police doctor in the Police Lines rather than have gone to a private practitioner in the city. The petitioner filed an appeal to the Deputy Inspector-General of Police, Ambala Ranga, which was rejected. The Deputy Inspector-General thought that "creating rowdyism under the influence of liquor in the Police Lines was a matter for severe cosideration." The petition for revision filed before the Additional Inspector-General of Police was also unsuccessful. The petitioner has now come up to this Court and has filed the present writ petition.

His first contention is that his application to the Inquiry Officer, Sub-Inspector Basant Singh, remained un-heeded. In that application he had asked that he be supplied with the copies of the documents to be proved against him during the departmental inquiry. He had also asked for the copies of the statements of all the prosecution witnesses that had been recorded and also of the report sent to the District Magistrate, Ambala, for his sanction, along with the actual sanction. As the statements of the prosecution witnesses had not yet been recorded, no copies could be supplied. There was no report to the District Magistrate, Ambala, for sanction, and the question of supplying a copy of any such report could not arise. There is really only one document, which is the report, dated 3rd of January, 1965, of Sub-Inspector Basant Singh, the Inquiry Officer. In this report he had recorded the fact of the information he had received about the petitioner and the other Constable having taken alcoholic drinks at night in the barracks and that he had taken the petitioner to the Police Doctor, who had reported that the petitioner was examined and that he had taken liquor. The statement of Kuldip Raj Foot Constable was recorded by the Inquiry Officer on 16th of January, 1965, wherein he had stated *inter alia* that the petitioner was smelling of liquor and he started making noise. The petitioner cross-examined Kuldip Raj, but did not cross-examine him with a view to challenge the latter's statement as to his having taken liquor or his having made noise. The statement of Kuldip Raj, regarding this aspect was not challenged.

I do not think that the petitioner has been prejudiced by copy of the report of Nanak Chand Reserve Inspector, dated 3rd of January, 1965, (copy Annexure "A" to the writ petition), not having been supplied to him. He merely stated therein how he had been sent for and that he had taken the petitioner to Dr. Chaman Lal of the hospital in the Police Lines and that the doctor had examined the petitioner and had opined that he (the petitioner) had taken liquor. No prejudice, whatsoever, could be caused to the petitioner as a result of the copy of this document not having been furnished to him. He knew that the Police doctor had examined him and found him under the influence of liquor. He could have examined the Police doctor if he wanted. As a matter of fact he produced in his defence Dr. Arjan Dev, a private medical practitioner of Ambala, to show that he had taken a medicine containing alcohol.

The learned counsel for the petitioner has next drawn my attention to *State of Madhya Pradesh* v. *Chintaman Sadashiva Waishampayan* (1), regarding the right of a public servant to have a reasonable opportunity to meet the charges framed against him. The decision of the Supreme Court is distinguishable on facts. The inquiry was not vitiated by any defects of the character noticed in that decision. The petitioner had been given ample opportunity to substantiate his contention. He had made his own statement and produced some evidence.

The next point urged is that the imposition of the penalty of dismissal was not permissible in view of the provisions of the Punjab Police Rules, 1934 (Volume II), Chapter XVI, rule 16.2(1), which provides—

> "Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service of the offender and his claim to pension."

The other punishments provided under the Punjab Police Rules are reduction to a lower rank or from the selection grade of a rank to the time-scale of the same rank; and if in a graded rank, to a lower position in the seniority list of the grade or to a lower grade. The increment of a police officer in a time-scale may be withheld as a punishment. He may be confined to quarters or censured. There are also other modes of departmental punishments. A police officer is also liable to be prosecuted criminally where such a course is considered expedient in the interest of administration.

In the list of punishments in the Police Manual one noticeable omission is of punishment by removal from service which does not disqualify from future employment. This penalty can be imposed upon the members of the Punjab Civil Services under Rule 4(vi) of the Punjab Civil Services (Punishment and Appeal) Rules, 1952, but members of the Police force are not governed by these rules.

(1) A.I.R. 1961 S.C. 1623.

The main argument rests on the meaning and import of the words "dismissal shall be awarded only for the gravest acts of misconduct." The first contention of the petitioner is, that on the assumption that he was under influence of liquor and making noise in the barracks when off duty, he cannot be punished except when there are several acts of misconduct. This is because the police rule refers to "acts" and not to an 'act' of misconduct. The contention that there must be plurality of acts of misconduct does not appear to me to be sound as this interpretation can lead to absurd results. Taking an extreme illustration, can it be said, that the framers of the Police Rules contemplated, that if a foot constable were to subject a high police officer to a wanton and serious assault, or were to be guilty of a single act of gross insubordination, the punishment of dismissal could not be imposed, unless such conduct was repeated at least once. The use of the word 'acts' does not exclude a single act of misconduct. In order to give effect to the legislative intent, the words in plural number may be construed to include the singular; and the words importing the singular only, may be applied to plurality of acts. things or persons. In order to gauge gravity of misconduct, what matters is not frequency, as obliquity or delinquency. I cannot persuade myself to accept the argument that a single act of misconduct, however grave, can never result in dismissal. What really matters is the enormity of the misconduct.

"Misconduct" is a generic term and means "to conduct amiss; to mismanage; wrong or improper conduct; bad behaviour; unlawful behaviour or conduct." It includes malfeasance, misdemeanour, delinquency and offence. The term "misconduct" does not necessarily imply corruption or criminal intent.

The word "grave" is used in many senses and implies seriousness, importance, weight, etc. There is, however, a distinction between misconduct and grave misconduct. The adjective 'grave' in this context makes the character of the conduct, serious or very serious. The words "gravest acts of misconduct" are incapable of definition. One has to apply one's mind to the words and give a meaning to each of them in the light of the actual deed, situation and circumstances. 'Misconduct' in order to earn the epithet of gravity has to be gross or flagrant. Consequently the degree of misconduct to justify dismissal has to be higher or more serious.

The use of the superlative 'gravest' and the adverb 'only' is not entirely without significance. To look at the matter exclusively from a grammatical angle, 'gravest' is the highest degree of misdeed as compared to what is just 'grave'. This is because of the use of the superlative degree as against the positive or comparative degree. The superlative degree may be used either to denote the highest or maximum degree in a given aggregate, or simply to indicate a supreme or very high degree without definite comparison. In the former sense, particularly when construing a statute, no misconduct can be styled to be of such an extreme degree as to be without a parallel or which cannot be worsted or bettered. "Misconduct" even if of the very worst cannot reach such a peak or depth which cannot be surpassed. Even in the case of superlative degree of misconduct there are grades and degrees. The argument does not admit of serious consideration, that the intent of the framers of the rule was, that absolutely the worst misconduct could alone merit dismissal, and so long as, comparatively speaking, there could be a possibility of a still worse conduct, it could not be termed the gravest act of misconduct. Human conduct or behaviour cannot be graded and there can be no precise scale of graduation in order to arithmetically compare the gravity of the one from the other. In the circumstances, the use of the superlative degree, appears to be intended to indicate a supereminent, or a very high degree of misconduct, and not, that the degree should be so high or so low as cannot be outclassed or excelled.

It is no doubt a rule of construction, that effect must be given, where possible to every word, clause and sentence of a statute. It is equally true that a statute is to be construed, so that effect is given to all its provisions and, nothing is to be deemed superfluous or insignificant. But the literal interpretation of the words should not prevail if it creates a result contrary to the apparent intention of the legislature and if the words are sufficiently flexible, to admit of a construction which will effectuate the legislative intention. The intention must prevail over the letter, the letter; must, if possible, be read so as to conform to the spirit of the Act. Inquest of the intention of the legislature, words or clauses may have to be given enlarged or restricted meaning. What is of moment, is not the abstract force of the words, or what they may conceivably comprehend, but in what sense they were intended to be used in the Act. In speech and expression resort is occasionally had to

exaggeration for the purpose of emphasis; there is a general proneness to overstress; and superlative is often used where the intention is to mean only a very high degree. The use of superlative is one of the modes of laying stress on a particular requirement. The tendency to use superlative for that purpose is to be found even in formal documents.

The superlative degree, in relation to material things may admit of arithmetical accuracy in order to express the highest degree of the quality or attribute indicated in the adjective or adverb used. By way of illustration, one can refer with mathematical precision to the tallest building in the town, the highest mountain in the state, the longest river in the country, the deepest ocean, etc. In these cases the highest attribute is intended not to be eclipsed. In the realm of the non-material or the notional, in particular in relation to thought, action, conduct or to mental qualities, the superlative is used in an exaggerating, heightening or hyperbolical sense, or in order to indicate simply a high degree of the quality mentioned. From the grammatical point of view the use of the superlative degree in order to emphasise a particular quality without intending that it cannot be surpassed, is permissive.

I may now refer to the relevant canons of construction of statutes, statutory rules, or formal documents. The general words should receive a general construction and their meaning may in an appropriate case be expanded or restricted with a view to see that construction does not lead to injustice, oppression or to an absurd consequence. It would certainly lead to an absurd conclusion if one were to confine the passing of an order of dismissal in cases of misconduct, the gravity of which cannot be transcended.

It is also a well known principle of interpretation of statutes that the rules of grammar, though ordinarily applied for the purpose of ascertaining the meaning of a statute, they are, however, not controlling, when the legislative intention would be defeated. In construing the words of a statute the Courts adhere to the plain common sense meaning of the language rather than apply refined and technical rules of grammatical construction. Statutes are construed primarily with an eye to legislative intent rather than with a view to look for niceties and refinements of grammar. The general purpose of a statute is a more important aid to meaning than any rule which grammar may lay down.

Another consideration which is worthy of weight, is the rule of contemporaneous construction placed by the officers or departments charged with the duty of acting upon it or executing it. In this case the Superintendent of Police, the Deputy Inspector-General, and finally the Inspector-General of Police, assessed the conduct of the petitioner to be of the requisite gravity so as to merit the imposition of the punishment of dismissal. The officers of the Police Department are charged with the duty of maintaining and observing discipline. As to the standard of discipline required to be enforced in their case, the judgment of their superior officers deserves to be respected and should not be lightly interfered with. The police force is required to discharge highly responsible and onerous duties for maintenance of law and order, and for other purposes essential to the life of the Community. These duties from their very nature have to be of an exacting nature. The result of laxity in conduct, or infringement of rules of discipline can undermine the optimum usefulness of the force.

Moreover, it was for the police officers, who judged the infraction of the police rules to determine the seriousness of the misconduct and to decide upon the suitability of the punishment. It will not be within the ambit of the powers of this Court, when petitioned to issue the extraordinary writs of *certiorari, mandamus,* etc. to interfere with the discretion of the Heads of the Departments when it has not been exercised wantonly or arbitrarily. These are well settled limitations which High Courts impose upon themselves when exercising the extraordinary jurisdiction. As observed by the Supreme Court in *State of Orissa and others* v. *Bidyabhushan* (2). the Court in a case in which an order of dismissal of a public servant is impugned, is not concerned to decide whether the sentence imposed, provided it is justified by the rules, is appropriate having regard to the gravity of the misdemeanour established. The reasons which induce the punishing authority, if there has been an enquiry consistent with the prescribed rules, are not justiciable: nor is the penalty open to review by the Court. The condition necessary for the issuance of a writ of *certiorari* is, that the order of the inferior tribunal suffers from an error which is apparent on the face of the record, or, in the exercise of its jurisdiction, the tribunal has acted illegally or arbitrarily. The evidence has been considered and the

(2) A.I.R. 1963 S.C. 779 (786).

conclusion drawn from its appraisal cannot be re-opened. No error of fact will be corrected by this Court, when exercising its supervisory jurisdiction. It is not permissible to advance the argument, that the evidence adduced before the tribunal was insufficient or inadequate to sustain the impugned finding. This view is amply supported by a long series of decisions and reference may be made to *T. Prem Sagar* v. *M/s. Standard Vacum Oil Company* (3) and *Syed Yakoob* v. *K. S. Radha-Krishnan and others* (4).

Having carefully gone through the impugned orders, I cannot find any error or lacuna which may be deemed to be apparent on the face of the record. After giving due weight to the issues raised, I find the petition devoid of merit and it is, therefore, dismissed. The petitioner has been dismissed from service and I will not burden him with costs.

R.N.M.

LETTERS PATENT APPEAL

Before Shamsher Bahadur and Prem Chand Pandit, JJ.

SADHA SINGH LAMBARDAR AND OTHERS,—*Petitioners.*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents.*

Letters Patent Appeal No. 166 of 1967

August 16, 1967.

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act (L of 1948)—S. 42—Additional Director—Whether can review his previous order—Re-partition scheme confirmed after appeals and revisions under Ss. 21 and 42 were decided—Some right-holders complaining to Minister-in-charge against the consolidation proceedings and defects found with regard to valuation—Additional Director then revoking consolidation scheme from the valuation stage—Order of revocation—Whether valid—Constitution of India (1950)—Art. 226—Jurisdiction of the High Court to interfere with the impugned order—When to be exercised.

(3) A.I.R. 1965 S.C. 111.
(4) A.I.R. 1964 S.C. 477.