FULL BENCH

Before S. S. Dulat, Daya Krishan Mahajan and Prem Chand Pandit, JJ.

MOTI LAL AND OTHERS,—*Petitioners.*

versus

THE UNION OF INDIA AND OTHERS,—*Respondents.*

Civil Writ No. 1978 of 1964.

1965

March, 22nd.

States Reorganisation Act (XXXVII of 1956)—Ss. 115, 116 and 117—Central Government or Chief Justice—Whether the final authority to decide any matter touching the integration of the servants of

(1) A.I.R., 1925, Lahore, 326(1).

the High Court consequent on the merger of two States—Constitution of India (1950)—Article 229—Effect of.

Held (by majority—Dulat and Mahajan, JJ.), that Article 229 of the Constitution empowers the Chief Justice of a High Court to make appointments of officers and servants of that High Court and also to prescribe their conditions of service. This power is to be exercised by the Chief Justice himself or by any other Judge or officer cominated by him. The States Reorganisation Act, 1956, which was a measure undertaken under Article 3 of the Constitution, could legitimately make provisions, which could override to some extent the power of the Chief Justice under Article 229 of the Constitution. There is, however, nothing in sections 115 to 117 of the States Reorganisation Act to establish that the Central Government and not the Chief Justice of this High Court is the final authority to decide any matter touching the integration of the servants of the High Court consequent on the merger of the two States brought about by the States Reorganisation Act. The Chief Justice, thus, being the final authority concerning the servants of the High Court in spite of the States Reorganisation Act, an order passed by him that a new seniority list should be prepared in accordance with the views of the Central Government and effect given to those views, cannot be challenged.

Held, (per Pandit, J.), that under the State Reorganisation Act, it was the Central Government, and not the Chief Justice, which was the final authority to make decisions regarding the integration of the staff of the erstwhile Pepsu and Punjab High Courts. The provisions of the States Reorganisation Act do not in any way affect the powers of the Chief Justice of the High Court conferred upon him under Article 229 of the Constitution, because it is only the integration of the services consequent on the reorganisation of the States that has been taken over by the Central Government. Subsequent to this integration, the Chief Justice may exercise his powers under Article 229.

Bhagirth Dass, B. K. Jhingan, S. K. Hirajee, Kesho Ram Mahajan and S. S. Dhingra, Advocates, for the Petitioners.

Mr. Niran De, Additional Solicitor-General with C. D. Dewan, Deputy Advocate-General, J. N. Kaushal, Advocate-General, with M. R. Agnitohri, Advocate, D. S. Nehra, K. S. Nehra, and J. L. Gupta, Advocates, for the Respondents.

ORDER

Dulat, J. DULAT, J.—The dispute in this case is, if I may say so, domestic, as the contestants are all members of the staff of this High Court.

Prior to the 1st November, 1956, there were in existence two States, being the previous State of Punjab and the State of Pepsu. There was a High Court in Pepsu. By the States Reorganisation Act, 1956, the two States were merged to form the present State of Punjab, and the Pepsu High Court was, by the same Act, abolished. The members of the staff of the Pepsu High Court came to this High Court and were absorbed here. A question arose at that time as to how the integration of the two staffs was to be effected. The Punjab State had framed certain integration rules and the Chief Justice of the Punjab High Court adopted most of those rules with certain modifications and ordered integration to be made accordingly. A joint list was then prepared indicating the *inter se* seniority of the members of the Joint Staff. Speaking generally, it appears that the officials who had come from the Pepsu High Court were not fully satisfied and a large number of representations were made to the Chief Justice. Those were considered and decided. Representations, however, continued to be made and the staff of the previous Pepsu High Court desired that their representations should be forwarded to the Central Government under sections 115 and 117 of the States Reorganisation Act, 1956. This request was at first declined, but subsequently in November, 1962, the Chief Justice of this Court obtained the opinion of three Judges on the administrative side in order to ascertain whether the Central Government had any jurisdiction in a matter like this. The weight of opinion was that the Central Government had no jurisdiction, but, of course, nothing was decided judicially. The Chief Justice considered this matter and he finally decided that the representations made by the previous Pepsu employees might be sent to Government without any comment or commitment. Those representations, therefore, went to the Central Government and the Central Government took a view which disturbed the previous decisions made by the Chief Justice. Those views of the Central Government were communicated to the Chief Justice through the Punjab State, and the Chief Justice made a direction that a new seniority list of the

entire staff should be prepared conforming to the decisions of the Central Government. It is against that decision that the present writ petition under Article 226 of the Constitution has been brought on behalf of 77 members of the High Court staff, who all belong to the previous staff of the High Court as it was before the merger, and who can conveniently be called 'Punjab employees' as against a set of respondents who were previously employed in the Pepsu High Court, and can conveniently be called 'Pepsu employees'. When the petition was filed, the only respondents were the Union of India, the State of Punjab, and the Chief Justice of this Court along with the Registrar, but later on at the instance of the 'Pepsu employees' they were quite properly joined in the writ petition and now figure as the 5th respondent.

The writ petition says in substance that the only constitutional authority competent to make any decision concerning the staff of this High Court is the Chief Justice, and no outside authority has any legal power to interfere with his decision, and the decision of the Central Government, therefore, touching the servants of the High Court, is entirely illegal and cannot be given effect to. I have said that that is the substance of the petition, because in its form some difficulty has arisen, to which I will presently refer. The claim made in the prayer clause is that a writ should issue to the Chief Justice and to the Registrar of this Court not to give effect to the directions of the Central Government issued under section 117 of the States Reorganisation Act and that the decisions previously made by the Chief Justice should be enforced. There are then certain ancillary prayers which are not material.

In answer to this writ petition, the Union of India have appeared through their counsel, and the 'Pepsu employees' are represented through another counsel, while the learned Advocate-General has appeared on behalf of the State of Punjab as well as the Chief Justice of this Court.

On behalf of the Union of India one objection taken is that the new seniority list in supersession of the previous seniority list is being prepared under the orders of the Chief Justice dated the 31st August, 1964, but that order is not being impugned and no prayer is made for quashing that order, and in the circumstances the present petition is

Moti Lal and others
v.
The Union of India and others

futile. Alternatively, it is claimed on behalf of the Central Government that they had authority to consider the representations made by the 'Pepsu employees' and to issue directions under the States Reorganisation Act under sections 115 and 117.

Dulat, J.

On behalf of the 'Pepsu employees' stand taken is that under the provisions of the States Reorganisation Act, the Central Government is the final authority for the integration of State servants including High Court servants, and the Central Government was, therefore, competent to make the directions, now being impugned. Apart from this, the learned Advocate-General contends, and this he does not only on behalf of the Punjab State but also for the Chief Justice of this Court; that as a matter of fact the decision which is intended to be implemented now is the decision of the Chief Justice made on the 31st August, 1964, and to that no objection is being taken or can be taken on the case set up on behalf of the petitioners. What is said by the learned Advocate-General is that apart from the question whether the Central Government had or did not have authority to make any binding decision concerning the staff of this High Court, the actual decision, and the only decision which is going to be implemented, is the decision of the Chief Justice, and since no objection can be taken to the authority of the Chief Justice, there is no point in the present petition. We are, therefore, faced with two questions:—

(1) Is the Chief Justice of this Court the sole authority to decide a dispute like the present and the Central Government, in spite of the States Reorganisation Act, 1956, has no authority to make any decision concerning the integration of the staff of the High Court?

(2) Whether the decision settling the *inter se* seniority of the staff is the decision of the Chief Justice of this Court, dated the 31st August, 1964, and being his decision, it cannot be questioned?

Article 229 of the Constitution empowers the Chief Justice of a High Court to make appointments of officers and servants of that High Court and also to prescribe their

conditions of service. This power is to be exercised by the Chief Justice himself or by any other Judge or officer nominated by him. It is common ground that the real object behind this constitutional provision is, speaking generally, the complete independence of a High Court from outside interference. As observed in a recent decision of this Court, *Kidar Nath* v. *The Punjab Government and another* (1), "the intention of the framers of the Constitution when they declared and provided in Article 229 that appointments of officers and servants of a High Court shall be made by the Chief Justice or such other Judge or officer of the Court as he may direct, was to secure and maintain the independence of the High Courts, which was the *sine qua non* for establishing and working an essentially and highly developed democratic form of Government in this country." It is on this principle that considerable stress is laid by Mr. Bhagirath Dass in support of the present petition. He admits, of course, that this power under Article 229 of the Constitution, which is, in ordinary circumstances, immune from interference by any outside authority, can be made the subject of legislation by Parliament under Article 3 of the Constitution, as Article 4 provides that any law made under Article 3, which concerns the reorganisation of States, can make 'such supplemental, incidental and consequential provisions' as Parliament may deem necessary. It is not denied, therefore, that the States Reorganisation Act, 1956, which was a measure undertaken under Article 3 of the Constitution, could legitimately make provisions, which could override to some extent the power of the Chief Justice under Article 229 of the Constitution. The question is whether the States Reorganisation Act has done so, and when Mr. Bhagirath Dass invokes the high principle that the independence of the High Courts is desired always to be maintained, by the Constitution, he relies on it, not to say that the States Reorganisation Act could not have interfered with Article 229 of the Constitution, but that it was highly unlikely that Parliament should have wished to do so. It is in this background that the provisions of the States Reorganisation Act have to be viewed. Part X of that Act deals with services, and leaving section 114, which is the first section in that

(1) I.L.R., 1964, Punj. 377.

Moti Lal and others
v.
The Union of India and others

Dulat, J.

part, and which is not very material to the present controversy, we come to section 115, sub-section (1) which says :-

> (1) "Every person who immediately before the appointed day is serving in connection with the affairs of the Union under the administrative control of the Lieutenant-Governor or Chief Commissioner in any of the existing States of Ajmer, Bhopal, Coorg, Kutch and Vindhya Pradesh, or is serving in connection with the affairs of any of the existing States of Mysore, Punjab, Patiala and East Punjab States Union and Saurashtra, shall, as from that day, be deemed to have been allotted to serve in connection with the affairs of the successor State to that existing State.
>
> (2) * * * * * * *"

The employees of the Pepsu High Court were undoubtedly serving in the State of Patiala and East Punjab States Union, and we are bound to hold in view of the Supreme Court decision in *Pradyat Kumar Bose* v. *Chief Justice of Calcutta High Court* (2), that those servants of the Pepsu High Court were 'serving in connection with the affairs of the State of Pepsu'. Similarly, the servants of the Punjab High Court, prior to the 1st November, 1956, were serving in connection with the affairs of the Punjab State. By virtue of section 115 both these sets of servants stood allotted to the new State of Punjab, which came into being on the 1st November, 1956. So far there is no difficulty and no real controversy between the parties. Leaving then sub-sections (2), (3) and (4), of section 115, which are not very material, we come to sub-section (5) and that says—

> "(5) The Central Government may by order establish one or more Advisory Committees for the purpose of assisting it in regard to—
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> (a) the division and integration of the services among the new States and the States of Andhra Pradesh and Madras; and
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> (b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this

(2) A.I.R. 1956, S. C. 285.

section and the proper consideration of any representations made by such persons."

Sub-section (6) exempts from these provisions the case of persons covered by section 114, and that is not material, and then comes sub-section (7) in these words—

"(7) Nothing in this section shall be deemed to affect after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:

Provided that the conditions of service applicable immediately before the appointed day to the case of any person referred to in sub-section (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the Central Government."

The main controversy centres round the meaning of sub-section (5). Mr. Bhagirath Dass maintains that the Central Government when establishing Advisory Committees for the integration of the services among the new States and for considering representations made by service personnel, does not deal with servants of any High Court. The respondents say that the servants of the High Courts are included. Before considering the merits of the contentions, it is useful to refer to section 116, which runs—

"(1) Every person who immediately before the appointed day is holding or discharging the duties of any post or office in connection with the affairs of the Union or of an existing State in any area which on that day falls within another existing State or a new Part A State or a Part C State shall, except where by virtue or in consequence of the provisions of this Act such post or office ceases to exist on that day, continue to hold the same post or office in the other existing State or new Part A State or Part C State in which such area is

Moti Lal and others
v.
The Union of India and others

Dulat, J.

included on that day, and shall be deemed as from that day to have been duly appointed to such post or office by the Government of, or other appropriate authority in, such State or by the Central Government or other appropriate authority in such Part C State, as the case may be.

(2) * * * * * "

This is followed by section 117 in these terms:—

"The Central Government may at any time before or after the appointed day give such directions to any State Government as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Government shall comply with such directions."

The learned Advocate-General argues that if sub-section (1) of section 115 refers to and includes High Court employees, then it is unreasonable to think that the subsequent sub-sections do not include such employees, as the subject dealt with, according to him, would be the same. Mr. Bhagirath Dass, however, contends that since certain High Courts, like the Pepsu High Court, were abolished and something had necessarily to be done about the servants of those High Courts, a general provision was necessary for them, and, therefore, sub-section (1) of section 115 speaks of persons serving in connection with the affairs of the existing State, so that such employees may stand allotted to the new State, but that nothing else was a necessary as far as High Court employees were concerned, and there is no reason, therefore, to think that sub-section (5) also includes High Court employees. On the other hand, he says, such an implication would cut deeply into the principle of 'independence of High Courts' and that is not to be lightly inferred.

No decided case dealing exactly with this matter has been brought to our notice. There are, however, in my opinion two broad clues to be found in the provisions of the States Reorganisation Act, which support Mr. Bhagirath Dass's view. The first is in sub-section (7) of section 115 and the second is in section 117. It will be observed that sub-section (5) authorises the Central Government to set up Advisory Committees for the purpose of

assisting it in regard to the division and integration of services and for the purpose of considering and disposing of representations made by those affected by the division and integration, so as to ensure equitable treatment to all. Sub-section (7) then says that this authority given to the Central Government is not to be taken to abolish for all time the power given to the appropriate authority under Chapter I of Part XIV of the Constitution. This Chapter I of Part XIV begins with Article 308 and ends with Article 314, the subject being "Services under the Union and the States'. Article 309 is particularly in point here; for that Article authorises the appropriate Legislature to lay down conditions of service of persons in public services or holding posts in connection with the affairs of the Union or any State, and then follows a proviso, which is important, making it competent for the President and, in the case of the States, the Governor 'to make rules regulating the recruitment and the conditions of service, pending, of course, the framing of law, if any, by the appropriate Legislature.' It is this power of the appropriate authority, such as the Governor to make rules that is being preserved by sub-section (7) of section 115 of the States Reorganisation Act. The object of this sub-section is plain enough and it is that just because Parliament has authorised the Central Government to deal with certain matters concerning the services, it does not mean that such power is to go on for ever, overriding the power of the Governor under Article 309. Sub-section (7), therefore, says that after the appointed day, the provisions of Chapter I of Part XIV of the Constitution will continue to operate. The significant fact is that all mention of Article 229 is omitted. Assuming for a moment that Parliament was in sub-section (5) providing for each and every service including the servants of the High Courts, it is surprising that when 'saving the normal powers 'of the appropriate authorities by sub-section (7), Parliament did not think of the normal powers of the Chief Justice of a High Court', and it seems to me that no thought was given to Article 229 of the Constitution when enacting sub-section (7), because nothing regarding the High Court employees was enacted in sub-section (5). Under section 117 the Central Government is authorised to give directions to the State Governments in order to have its decisions implemented but no mention is made of any direction to the High Courts. The learned Advocate-General says that the omission of the

Moti Lal and others
v.
The Union of India and others

Dulat, J.

High Courts in section 117 is not significant, because ordinarily the channel of communication from the Central Government to any other authority is the State Government. Regarding sub-section (7) of section 115 he says that Chapter I of Part XIV of the Constitution covers all the services both under the Union as well as the States, and, therefore, no special mention of Article 229 of the Constitution was necessary. I am, not, however, persuaded that Chapter I of Part XIV of the Constitution, that is, Articles 308 to 314, are the only provisions governing the services, for there are in the Constitution several other provisions for certain services; and although some of the provisions of Chapter I of Part XIV do certainly apply to all the services, Article 309 obviously does not apply to servants of the High Courts, who are governed by Article 229. It does not apply to servants of the Legislature for whom a separate provision is made in the Constitution, in Article 187 as far as the State Legislatures are concerned, and Article 98 as far as the Central Parliament is concerned. Similarly, there is a special provision regarding the Indian Audit and Accounts Department and the powers of the Comptroller and Auditor-General under Article 148. It is not correct, therefore, to say that Article 309 or for that matter Chapter I of Part XIV of the Constitution contains all the provisions regarding all the services, nor am I impressed by the suggestion regarding section 117 that the State Governments being the channel of communication, no directions were thought necessary to be given to any other authority and, therefore, no other authority was mentioned by Parliament in that section.

Reference was made before us to section 116 and some inspiration sought to be drawn from it, but I doubt if section 116 says anything very significant except this that persons holding posts which are not abolished by or because of the States Reorganisation Act, would continue to hold those posts and will be deemed to have been appointed to those posts by the appropriate, competent authorities. This was a necessary provision so that State servants holding particular posts may continue to carry on their work as before without the necessity of any separate formal orders. The employees of the Pepsu High Court, however, could not continue to occupy the posts they previously did because of the abolition of the Pepsu High Court, and, therefore, it was necessary

that some provision should be made for them and that was made in sub-section (1) of section 115 by saying that they were allotted to the new State of Punjab. I am not suggesting that they were just left unprovided for, and quite naturally, when allotted to the new State of Punjab, they were given posts in the new High Court. The question before us is about the method of integrating them into the new set up. In that connection it seems to me that the Central Government was not given any authority, for had it been the intention of Parliament that the Central Government and not the Chief Justice was to finally decide the question of integration concerning High Court servants, some clearer provision would have found place in the States Reorganisation Act. In my opinion, therefore, Mr. Bhagirath Dass is right in maintaining that there is nothing in the States Reorganisation Act to establish that the Central Government and not the Chief Justice of this High Court is the final auhority to decide any matter touching the integration of the servants of the High Court consequent on the merger of the two States brought about by the States Reorganisation Act.

The second question, is in substance, one of fact, although, as placed before us, it has to be inferred from other facts. Two opposing views are urged before us. One is on behalf of the petitioners, and it is that the Chief Justice has not decided anything by his order dated the 31st August, 1964, but has merely felt obliged to obey and carry out the directions of the Central Government, which in law he was not bound to do. The other view put forward on behalf of the respondents is that the Chief Justice has considered the views of the Central Governments and has found those views acceptable, but that the final decision is essentially his own decision and nobody can, therefore, question it. The learned Advocate-General, who has, I should think, received instructions from the Chief Justice, stated in Court that the decision of the 31st August, 1964, is the decision of the Chief Justice. It is true that no return has been filed on behalf of the Chief Justice, but in spite of that we cannot brush aside the responsible statement made on his behalf by the learned Advocate-General. The omission to file a return is explained by the circumstance that there was nothing much for the Chief Justice to say in this case beyond what is a matter of record

Moti Lal and others
v.
The Union of India and others

Dulat, J.

and he may well have felt that the return filed by the Registrar of this Court, which, we are assured, has the approval of the Chief Justice, was sufficiently clear. That return supports the learned Advocate-General's assertion that after the representations had been sent to the Central Government without any commitment and after the views of the Central Government were received back, they were considered by the Chief Justice in the light of all the circumstances, and because he thought those views sufficiently reasonable, he decided to act accordingly not because he felt compelled to do so but because as Chief Justice of this Court he was competent to take advice from any quarter he thought necessary and then decide and act as he considered best. The question is whether there is anything before us to negative those assertions? We have been referred to the order of the Chief Justice which only consists of the single word "Yes" signifying his approval of the proposal made to him by the Registrar of the Court. That proposal consists in a long and reasoned note mentioning all the previous facts and circumstances. The note indicates, besides the previous history of the case, what the views of the Central Government have been, and then inquires if a new seniority list should be prepared in accordance with the views of the Central Government and effect given to those views. To this course the Chief Justice 'agrees'. Can we say that the decision is not his? It is in this connection that the objection taken on behalf of the Government of India, namely, that the decision of the Chief Justice, dated the 31st August, 1964, is not being questioned at all in this petition, becomes pertinent. Mr. Bhagirath Dass concedes that he has not questioned the decision of the Chief Justice, for if it was in fact his decision, it is beyond challenge. On the face of the order of the Chief Justice, the decision seems to be his and there is no indication that he was compelled to make that decision by any outside authority and in any case no evidence before us to show that he felt so compelled. In my opinion, therefore, it cannot be concluded that the present order of the Chief Justice dated the 31st August, 1964, is not his order made in exercise of his own judgment, and since the validity of that order as such is not being challenged, and on Mr. Bhagirath Dass's argument could hardly be challenged, it is not possible to interfere with it.

I have said that in law the Chief Justice is the final authority concerning the servants of this High Court in spite of the States Reorganisation Act, and should it turn out that my conclusion of fact on the second question is wrong, there is apparently nothing to prevent the Chief Justice from considering the matter and taking a decision according to his own judgment. As matters stand, however, there is no ground for issuing any direction interfering with the decision of the Chief Justice, and I would dismiss the petition and in view of the circumstances of the case, leave the parties to their own costs.

Dulat, J.

D. K. MAHAJAN, J.—I agree.

Mahajan, J.

P. C. PANDIT, J.—I have gone through the judgment prepared by my learned brother Dulat, J. I concur that this writ petition should be dismissed, but with very great respect to him, I have not been able to persuade myself to agree with his finding that it is the Chief Justice of this Court and not the Central Government which is the final authority to decide any matter touching the integration of the servants of the High Court consequent on the merger of the Pepsu and Punjab States brought about by the States Reorganisation Act. It is, however, not necessary for me to write a detailed judgment, since the writ petition is being dismissed by him on the second question,, namely, that in the present case the decision dated 31st August, 1964 was in fact the decision of the Chief Justice of this Court and could, therefore, not be questioned.

Pandit, J.

I am fully alive to the high principle, so much emphasised by the learned counsel for the petitioners, that "the independence of the High Courts is desired always to be maintained by the Constitution" and it is just because of that independence that I feel compelled to record my dissent to the views expressed by my learned brother on the first question.

The States Reorganisation Act, 1956, was enacted in pursuance of Article 3 of the Constitution and as provided in Article 4(1) of the Constitution, it makes provisions supplemental, incidental and consequential to the reorganisation of the States. The matters with regard to the allotment, distribution and integration of services

Moti Lal and others
v.
The Union of India and others

Pandit, J.

of the various States involved in this process had, therefore, to be provided for in this Act and only Part X deals with the same. This Part must be deemed to be dealing with all services, including those connected with the High Courts. Sections 114 and 118, which occur in this very Chapter, deal with the provisions relating to All India Services and the State Public Service Commissions. Section 115 of the Act, therefore, applies to all the services excepting those dealt with in sections 114 and 118. If it was the intention of the Parliament to exclude the services connected with the High Courts from the scope of section 115, then a special provision with regard to them would have been made in section 115, as was done in sub-section (6) thereof in relation to the All India Services, because otherwise the scheme relating to the integration of the services would remain incomplete, It cannot be assumed that the Parliament was oblivious of the fact that the integration of the staff of the High Courts had also to be done. These provisions do not, in my opinion, however, in any way affect the powers of the Chief Justice of the High Court conferred upon him under Article 229 of the Constitution, because it is only the integration of the services consequent on the reorganisation of the States that has been taken over by the Central Government. Subsequent to this integration, the Chief Justice may exercise his powers under Article 229. It has been rightly pointed out by Dulat, J., if I may say so with respect, on the basis of the Supreme Court decision in *Pradyat Kumar Bose* v. *Chief Justice of Calcutta High Court* (2), that the servants of the Pepsu High Court were "serving in connection with the affairs of the State of Pepsu" and similarly the servants of the Punjab High Court prior to 1st November, 1955 "were serving in connection with the affairs of the Punjab State". By virtue of section 115(1), both these sets of servants stood allotted to the new State of Punjab, which came into being on 1st November, 1956. Sub-section (5) of section 115, in my opinion, clearly lays down that the Central Government had to establish Advisory Committees to assist it for the following purposes:—

(1) the division and integration of these services amongst the new States;

(2) ensuring fair and equitable treatment to all persons affected by the provisions of this section; and

(3) the proper consideration of any representations made by such persons.

The language of this subsection is quite explicit and is capable of no other meaning except this that the integration of the services is to be done by the Central Government, although it could establish Advisory Committees for its assistance in this regard, the task being a complicated and voluminous one as mentioned in a Bench decision of the Mysore High Court in *M.A. Jaleel* v. *The State of Mysore and others* (3), for such amalgamation, the posts in the services of one State had to be equated with the posts in the services of another and in making that equation, the attributes of the post of one State had to be compared with those of another. These were problems involving manifold difficulties, requiring the application of the mind of an Authority whose stature and pre-eminence inspired confidence and guaranteed even-handed treatment. It is clear that the Parliament selected the Central Government as the Authority to accomplish that important and difficult work of making an impartial and fair integration at the highest level." Under these circumstances, the task of division and integration was the special responsibility of the Central Government, which it could perform with the assistance of the Advisory Committees.

It was vehemently argued by the learned counsel for the petitioners that in sub-section (7) of section 115, there was no mention of Article 229 and, therefore, nothing about the High Court staff was provided in sub-section (5) of section 115, because if sub-section (5) was providing for each and every service, including the servants of the High Courts, it was surprising that when saving the normal powers of the appropriate Authorities by subsection (7), Parliament did not think of the normal powers of the Chief Justice of the High Court. It follows therefrom that no thought was given to Article 229 of the Constitution when enacting subsection (7), because nothing regarding the High Court employees was provided in subsection (5).

In my view there is no force in this contention. It was not necessary to make a mention of Article 229 in sub-section (7), because Chapter I of Part XIV of the

(3) A.I.R., 1961, Mysore, 210.

Moti Lal and others
v.
The Union of India and others

Pandit, J.

Constitution, which is mentioned in this sub-section, includes Articles 308 to 314 and the opening words of Article 309 are "subject to the provisions of this Constitution", which obviously refer to Article 229 as well and thereby the Parliament did save the normal powers of the Chief Justice of a High Court under Article 229 of the Constitution. On this ground, it was also not necessary for the Parliament to include Articles 98, 148, and 187 of the Constitution in sub-section (7), Moreover, in the proviso to sub-section (7), it has been clearly laid down that the conditions of service applicable immediately before the appointed day to the case of any person referred to in subsection (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the Central Government. It has already been held above that the provisions of sub-section (1) apply to the employees of the High Courts as well. Therefore, the mention of sub-section (1) in this proviso clearly shows that the provisions of sub-section (7) did preserve the powers of the Chief Justice under Article 229 of the Constitution.

It was then contended by the learned counsel for the petitioners that a perusal of section 117 of the Act would show that the Central Government was competent to issue directions to the State Governments and not to any other Authority. In case the Parliament intended that the provisions of section 115 should apply to the High Court staff as well, then the words "or any other appropriate Authority" would also have been used after he words "State Government", wherever they occured in section 117, because in the absence of the same even if the Central Government had to integrate the services of the High Courts, it could not issue the directions in this respect to the High Courts.

In my opinion, there is no substance in this contention as well. It is undisputed that whenever the Central Government wishes to communicate anything to the appropriate Authority/High Court, the proper channel for doing so is the State Government. Likewise, if some matter requires the determination by the Central Government, it is sent by the appropriate Authority to the State Government, which transmits the same to the Central Government. In other words, the channel for

sending communications to, and receiving communications from, the Central Government is the State Government. It was in this view of the matter that the Parliament did not wish to add the words " or any other appropriate Authority" after the words " State Government" in section 117. The scope of the words "State Government" appearing in this section is, therefore, wide and the absence of the words "or any other appropriate Authority" does not make any difference. Learned counsel for the petitioners could not advance any valid reasons against this interpretation. Moreover, when the Parliament entrusted the job of integration of services, including the High Court staff, under section 115(5), as already held above, then it is implied that the Central Government could issue directions to all concerned Authorities in this respect.

In view of what I have said above, I am of the opinion that under the States Reorganisation Act, it was the Central Government, and not the Chief Justice, which was the final Authority to make decisions regarding the integration of the staff of the erstwhile Pepsu and Punjab High Courts.

In view of my finding on the first question, it is needless for me to decide the second question.

The result is that this petition fails and is dismissed. In the circumstances of this case, however, I would leave the parties to bear their own costs.

B.R.T.

4355 HC 1000--8-6-65—C., P. & S., Pb., Chandigarh.