Baldev Raj Guliani

Vs

The Punjab and Haryana High Court and Others

State of Haryana

Vs

Baldev Raj Guliani and Others

Civil Appeal Nos. 908 and 1041 of 1975

(Y.V. Chandrachud, P.K. Goswami, P.N. Shinghal JJ)

30.08.1976

JUDGMENT

GOSWAMI, J. -

1. These two appeals are by certificate from the judgment of the Full Bench of the High Court of Punjab and Haryana. Both the appeals question the decision of the High Court - one by the Judicial Officer and the other by the State Government.

2. The appellant in Civil Appeal 908 of 1975 (hereinafter to be referred to as the officer) was originally a member of the Punjab Civil Service (Judicial Breach). He was appointed as a subordinate Judge, IV Class, on February 27, 1956. Thereafter he was promoted as a Sub-Judge, First Class, and was in Amloh, district Patiala, the Bar Association of Amloh on May 11, 1965, sent a resolution to the High Court levelling certain charges against the officer affecting his integrity and impartiality. The High Court ascertained the facts through a preliminary enquiry held by the District Judge, apparently, ex parte, at this stage. Therefore, on the report of the District Judge a regular departmental enquiry was instituted. The officer was suspended by the Government on June 6, 1966, at the instance of the High Court. The District Judge, Sangrur, was appointed as the Enquiry Officer on July 21, 1966. He enquired into the charges levelled against the officer. The Enquiry Officer submitted his report and found him guilty of all the charges except one. The High Court agreed with the Enquiry Officer and came to a tentative conclusion that the officer should be removed from service.

3. Meanwhile the services of the officer were allocated to the State of Haryana with effect from November 1, 1966.

4. The High Court recommended to the State Government of Haryana to serve a notice under Article 311(2) of the Constitution asking the officer to show cause why the penalty of removal from service should not be imposed on him. This was done by the State Government on March 13, 1967. The officer submitted his explanation through the High Court on April 20, 1967. The High Court found the application to be unsatisfactory and recommended to the Government that the officer should be removed from service.

5. The State Government although on its own showing, "was inclined to agree with the views of the High Court and with the recommendation made by it", however, referred the case to the Haryana Public Service Commission for advice purporting to act under Article 320(3)(c) of the Constitution. The commission advised that no case had been made out against the officer and that he should be exonerated. The Governor accepted the advice of the commission and passed the order on August 24, 1968, reinstating the officer in service with immediate effect. The High Court was requested by the Government top post the officer on his reinstatement. The High Court did not issue any posting order to the officer as it was of the opinion that the order of the Government was illegal for the vice of consultation with the Public Service Commission and for accepting its advice disregarding the recommendation of the High Court. The High Court requested the Government to review its order but the Government did not take any action on that suggestion.

6. Since the High Court refused to pass any posting order notwithstanding his several prayers the officer preferred in the High Court of Punjab and Haryana a petition under Article 226 of the Constitution on July 12, 1971, praying for a writ of mandamus directing the High Court to issue an appropriate order of posting and also for a mandamus directing the Government to disburse full salary to the officer including the salary for the period under suspension and other consequential reliefs.

7. While the writ petition was pending before the Full Bench, the Governor, accepting the recommendation of the High Court, passed an order on December 16, 1974, issuing three month's notice of compulsory retirement to the officer and the officer thus retired on March 18, 1975, after attaining the age of 55 under the service rules. The officer challenged the notice of retirement by way of a writ petition in the High Court on March 10, 1975. The same was, however, withdrawn by the officer on March 13, 1975, on which date judgment of the Full Bench was delivered in the other writ application out of which the present appeals have arisen.

8. The officer, however, later on filed a writ petition 747 of 1975 in this Court against the order of compulsory retirement and he was allowed by us to withdraw the same on July 30, 1976. The retirement of the officer is, therefore, not in dispute.

9. The High Court by a majority of four learned Judges held as follows :

> (1) Since the impugned order exonerating the petitioner from all charges and reinstating him, was not passed in accordance with the mandatory provision of the Constitution embodied in Article 235 of the Constitution, the order is void and non est being ultra vires Article 235 of the Constitution and the High Court was right in not giving effect to it. They also observed that any recommendation made by the High Court in exercise of power under Article 235 must be held to be binding on the Governor.
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> (2) Since the Public Service Commission was an extraneous body and could not be consulted and was able to influence the decision of the punishing authority. The order suffers from a grave constitutional infirmity and is, therefore, liable to be declared ultra vires Article 235 of the Constitution and hence void and non est on this ground too. The High Court was, therefore, right in disregarding that order and not implementing it by giving the posting orders to the petitioner.

10. The fifth learned Judge (Gujral, J.) did not agree with the majority with regard to the

conclusions on the aforementioned first point. He however agreed with the majority with regard to the second point and also agreed with the final decision. The High Court dismissed the officer's writ application under Article 226 and held that he could not claim any relief on the basis of the order of reinstatement of the Governor of August 24, 1968. The High Court further held that the dismissal of the petition would not bar the State Government from passing an order against the petitioner in accordance with the recommendation of the High Court completely ignoring and keeping out of consideration the advice tendered by the Public Service Commission.

11. Firstly, the appellants contend that the Governor being the appointing authority is not bound to accept the recommendation of the High Court and the order reinstatement is well within his powers under Article 311 read with the Rules for Appointment of Subordinate Judges in Haryana and the Punjab Civil Service (Punishment and Appeal) Rules, 1952, and is perfectly valid. Secondly, they contend that the Governor is entitled under Article 320(3)(c) of the Constitution to consult the Public Service Commission with regard to the matter in question arising out of a disciplinary proceeding. Thirdly, it is contended on behalf of the officer that in view of the fact that he ultimately compulsorily retired on the recommendation of the High Court and the order of suspension merged with the order of reinstatement it is no longer possible for the Governor to pass the order of removal of a person who has already retired from service. It is submitted that in that view of the matter the writ application had become infructuous and even the High Court need not have decided the writ application. It is, therefore, submitted on behalf of the officer that since, on his reinstatement, the order of suspension lapsed and he had retired, he would be entitled to his full salary during the entire period of suspension upto the date of his retirement.

12. On behalf of the High Court it is submitted that under Article 235 of the Constitution the sole and exclusive disciplinary control over the subordinate judiciary being vested in the High Court the High Court's recommendation is binding on the Governor and the Governor ought to have accepted the recommendation and passed an order of removal of the officer. It is further submitted that the order of reinstatement passed by the Governor after consulting the Public Service Commission is absolutely void and ultra vires.

13. The Controversies, such as we have to deal with have raised their unpicturesque heads from time to time. We are therefore not required to write on a clean slate on this subject. Even so, one aspect of the matter, viz., that relating to consultation with the Public Service Commission by the Governor with regard to judicial officers' misconduct assumes a great importance in this case in a manner that has not arisen earlier before this Court.

14. The controversy in these appeals is rather disquieting. In view of several decisions of this Court wherein different facets of like problems were noticed and resolved one would have though that a healthy convention has frown and taken firm roots by now in fulfillment of one of the cherished directive principles of the Constitution in Article 50 which is based on the bedrock of the principle of independence of the judiciary.

15. Here, the High Court, after a full enquiry, which has not been questioned at any stage, came to the conclusion that the charges of misconduct of a judicial officer were established and that the officer was of dubious integrity. Who else but the High Court, in such a situation, is better posted to determine the issue and advise the Governor ? Yet, the stark reality is that the High Court's recommendation was given a go-by and the commission's contrary advice was preferred by the Governor. Time and again this Court has been observing hopefully that it will be in the best interest of a high and healthy tradition for the Governor to ordinarily accept the recommendation of the

High Court in a disciplinary matter concerning judicial officers !

16. We are concerned in these appeals with regard to a disciplinary proceeding in respect of a Subordinate Judge and hence falling within the purview of Article 235 of the Constitution. That article reads as follows :

> 235. The control over district courts and courts subordinate thereto including the posting and promotion of and the grant of leave to persons belonging to the judicial service of a State and holding any post inferior to the post of District Judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise then in accordance with the conditions of his service prescribed under such law.

17. In State of West Bengal v. Nripendra Nath Bagchi ((1966) 1 SCR 771 : AIR 1966 SC 447 : (1968) 1 LLJ 270) this Court in an elaborate judgment went into the history of the Article 233 to 237 of the Constitution. This Court held :

> The word 'control' as we have seen, was used for the first time in the Constitution and it is accompanied by the word 'vest' which is a strong word. It shows that the High Court is made the sole custodian of the control over the judiciary. Control, therefore, is not merely the power to arrange the day to day working of the court but contemplates disciplinary jurisdiction over the presiding Judge.

Dealing with the argument based on Article 311 this court further observed in the above case as follows :

> There is, therefore, nothing in Article 311 which complex the conclusion that the 'High Court is ousted of the jurisdiction to hold the enquiry if Article 235 vested such a power in it. In our judgment, the control which is vested in the High Court is a complete control subject only to the power of the Governor in the matter of appointment (including dismissal and removal) and posting and promotion of District Judges. Within the exercise of the control vested in the High Court, the High Court can hold enquiries, impose punishments other than dismissal or removal, subject however to the conditions of service, to a right of appeal if granted by the conditions of service, and to the giving of an opportunity of showing cause as required by clause (2) of Article 311 unless such opportunity is dispensed with by the Governor acting under the provisos (b) and (c) to that clause. The High Court alone could have held the enquiry in this case. To hold otherwise will be to reverse the policy which has moved determinedly in this direction.

18. Article 235 makes reference to the conditions of service which are prescribed under Article 309 of the Constitution. The Punjab Civil Services (Punishment and Appeal) Rules, 1952 (hereinafter to be referred to as the Punishment Rules), were made by the Governor of Punjab in exercise of the powers conferred under Article 309 of the Constitution. The judicial officers also hold posts in connection with the affairs of the State and the rules made under Article 309 so far as applicable, would govern their conditions of service. There are also the Rules relating to the Appointment of Subordinate Judges in Haryana (hereinafter to be referred to as the Appointment Rules) which were

promulgated by the Governor in exercise of the powers conferred by Article 234 read with proviso to Article 309 of the Constitution. These rules were made by the Governor after consultation with the State Public Service Commission and with the High Court. Under Rule 14, Part F of the Appointment Rules relating to Discipline, Penalties and Appeals it is provided as follows :

> In matters relating to discipline penalties and appeals including orders specified in Appendix B, members of the Service shall be governed by 'the Punjab Civil Services (Punishment and Appeal) Rules 1952' as amended from time to time :
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> Provided that the nature of penalties which may be inflicted, the authority empowered to impose such penalties or pass such orders and the appellate authority shall be as specified in Appendices 'A' and 'B' below :
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> #* * * * *##
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> In Appendix 'A' it is provided in item (f) that the punishing authority in case of removal from the service which does not disqualify from future employment is the "Government" and there is no appeal therefrom. In item (g) of Appendix 'A' dismissal is also provided for in similar terms. In Appendix 'B' the authority competent to pass an order of termination of the service of a Subordinate Judge is the "Government" and there is no appeal against such an order.

19. It will be seen that under Rule 14 of the Appointment Rules of the Subordinate Judges, the Punishment Rules are being made applicable to the Subordinate Judges.

20. Under Rule 4(vi) of the Punishment Rules read with Appendix 'A' of Part (F) of the Appointment Rules, the competent authority to remove a Subordinate Judge from service is the "Government". It was, therefore, appropriate that the High Court, after close of the departmental enquiry, when it was satisfied that the officer was guilty of misconduct deserving removal from service, recommended to the Governor for his removal. Upto this stage there was no difficulty. Trouble arose when the Government, although on its own showing, was inclined to agree with the High Court thought it proper to obtain the advice of the Public Service Commission as is usually done in its advice contrary to the recommendation of the High Court and held the opinion that the officer should be exonerated from the charges. The Government accepted the advice of the commission and reinstated the officer which resulted in refusal to accept the recommendation of the High Court.

21. In the above premises the questions that are raised are :

> (1) Whether the Governor is bound under the Constitution to accept the recommendation of the High Court and to pass an order of removal of the judicial officer.
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> (2) Whether consultation with the Public Service Commission in a matter of a disciplinary proceeding relating to the judicial officer under the control of the High Court is unconstitutional. Is then order of reinstatement passed by the Government constitutionally valid ?
>
> (3) If not, what will be the position of the officer on the date of the officer's compulsory retirement ? Is an order of removal possible after that date ?

22. There is no dispute that the appointing authority of a Subordinate Judge under Article 235 as well as under the Appointment Rules is the Governor. Under Article 235 itself the Subordinate Judge will be governed by the Appointment Rules made under Article 234 read with Article 309. The Appointment Rules by reference bring in the Punishment Rules whereby the punishing authority for removal is the "Government" mentioned in the former rules.

23. With regard to the first question the appellants submit that the Governor being the appointing authority both under Article 235 and the Appointment Rules read with the Punishment Rules, is the final authority to pass the order of removal of the officer and is not under any constitutional obligation to be bound by the recommendation of the High Court. They rely upon Article 311 of the Constitution read with the aforementioned service rules and submit that the control of the High Court under Article 235 does not impinge upon the power of the Governor to refuse to accept the recommendation of the High Court and to pass an appropriate order.

24. The learned Counsel for the High Court, on the other hand, submits that Article 235 of the Constitution leaves no option to the Governor to refuse to accept its recommendation in a disciplinary matter in respect of a judicial officer. He draws our attention to a very recent decision of this Court in State of Haryana v. Inder Prakash Anand H.C.S. ((1976) 2 SCC 977 : 1976 SCC (L&S) 372) to support his submission. He particularly relies upon paragraph 18 of that decision which reads : [SCC p 981 : SCC (L&S) p 376]

> The control vested in the High Court is that if the High Court is of opinion that a particular judicial officer is not fit to be retained in service the High Court will communicate that to the Governor because the Governor is the authority to dismiss, remove, reduce in rank or terminate the appointment. In such cases it is the contemplation in the Constitution that the Governor as the head of the State will act in harmony with the recommendation of the High Court. If the recommendation of the High Court is not held to be binding on the State consequences will be unfortunate. It is in public interest that the State will accept the recommendation of the High Court. The vesting of complete control over the subordinate judiciary in the High Court leads to this that the decision of the High Court in matters within its jurisdiction will bind the State. 'The Governor will act on the recommendation of the High Court. That is the broad basis of Article 235.' [See Shamsher Singh v. State of Punjab ((1975) 1 SCR 814 : (1974) 2 SCC 831 : 1974 SCC (L&S) 550) at page 841 (SCC p. 855 : SCC (L&S) p. 574]

25. It is pointed out by the appellants that in Inder Prakash Anand's case the question was whether the State Government could compulsorily retire a Senior Subordinate Judge-cum-Chief Judicial Magistrate under the Punjab Civil Services Rules against the recommendation of the High Court and that it was not a case relating to dismissal or removal on the disciplinary side. Though the question involved in I. P. Anand's case related to a different matter the abovequoted observations of this Court, useful for all occasions, have, hopefully, a wider cast and their significance can be overlooked only at some peril of the desideratum nurtured in the Constitution.

26. The High Court in making its recommendation to the Governor for passing the order of removal, has rightly conceded the authority of the Governor to pass the same. The question is : Is the recommendation of the High Court binding on the Governor ? Since the Governor is the ultimate authority to pass the order of removal it will not be correct always to insist that he has no authority even under certain extraordinary circumstances to decline to accept, forthwith, the

particular recommendation. Ordinarily and as a matter of graceful routine, recommendations of the High Court are and should be always accepted by the Governor. That is ordinarily so and should be in practice the rule as a matter of healthy convention.

27. Articles 233 to 237 relating to the subordinate judiciary are specially carved out and placed in the safe niche of a separate chapter, Chapter VI in Part VI of the Constitution under sub-title 'Subordinate Courts'. This by itself is significant. It is a major breakthrough in the Constitution from the position under the Government of India Act 1935 so far as the subordinate judiciary is concerned and clearly unfolds the keen awareness of the founding fathers in what has been a passionate and raging topic with regard to independence of the judiciary all through, over the years.

28. For the first time, in the country's history, appeared in the Constitution of India the concept of control over subordinate courts to vest in the High Court. The quality of exclusive control of the High Court does not appear to be whittled by the constitutional device of all orders being issued in the name of the Governor as the head of the State administration. When, therefore, the High Court exercising disciplinary control over the subordinate judiciary finds, after a proper enquiry, that a certain officer is guilty of gross misconduct and is unworthy to be retained in judicial service, and therefore, recommends to the Governor his removal or dismissal, it is difficult to conceive how and under what circumstances such a recommendation should be rejected by the Governor acting with the aid and advice of the council of ministers or, as is usually the case, of one of the ministers. It is in this context that this Court has more than once observed that the recommendation of the High Court in respect of judicial officers should always be accepted by the Governor. This is the inner significance of the constitutional provisions relating to the subordinate judiciary. Whenever in an extraordinary case, rare in itself, the Governor feels, for certain reason, that he is unable to accept the High Court's recommendations, these reasons will be communicated to the High Court to enable it to reconsider the matter. It is, however, inconceivable that, without reference to the High Court, the Governor would pass an order which had not been earlier recommended by the High court. That will be contrary to the contemplation in the Constitution and should not take place.

29. It is not necessary to pursue the matter in further depth as sought to be canvassed by the parties taking extreme stances in the view taken by us on the second question.

30. With regard to the second submission we are clearly of opinion that consultation with the Public Services Commission after receipt of the recommendation of the High Court for removal of the officer is not warranted by the provisions of Article 235.

31. It is true that under Article 235 as well as under the Appointment and Punishment Rules the Governor is the appointing and punishing authority. But under Article 235 the High Court is the sole custodian over the discipline of the judicial officers. There is no warrant for introducing another extraneous body between the Governor and the High Court in the matter of disposal of a disciplinary proceeding against a judicial officer. It is submitted on behalf of the appellants that Article 320(3)(c) provides that the Public Services Commission shall be consulted on all disciplinary matters affecting a person serving under the Government of a State in a civil capacity. Judicial officers although holding posts in civil capacity are not serving under the Government of a State. They hold posts in connection with the affairs of the State but are entirely under the jurisdiction of the High Court for the purpose of control and discipline. There is, therefore, no constitutional justification or sanction for the Governor, even if he wishes, to consult the Public Services Commission under Article 320(3)(c) in respect of judicial officers. Consultation with the Public Service Commission in this case and preference accorded to its advice ignoring the

recommendation of the High Court have introduced a serious constitutional infirmity in the final order of reinstatement passed by the Governor.

32. The appellants drew our attention to a decision of this Court in Pradyat Kumar Bose v. Hon'ble The Chief Justice of Calcutta High Court ((1955) 2 SCR 1331 : AIR 1956 SC 285) where this Court had to deal with one of the arguments founded on Article 320(3)(c) of the Constitution. In the above decision Pradyat Kumar Bose, who was Register and Accountant-General of the High Court on its original side and who was the appointee of the Chief Justice, was dismissed by the Chief Justice after a full and thorough enquiry held by one of the judges of the High Court whose findings were accepted by the Chief Justice. Inter alia, it was contended before this Court that the order of dismissal by the Chief Justice was vitiated as the Chief Justice did not consult the State Public Service Commission prior to dismissal of the Register as provided for under Article 320(3)(c). This Court repelled the contention holding that Article 320(3)(c) was contrary to the implications of Article 229 and the language thereof was also not applicable to the High Court staff since the members of the High Court staff did not serve under the Government of the Union or of the State.

33. It is submitted by the appellants that this Court held that Article 320(3)(c) was not applicable since the Chief Justice was the sole appointing and punishing authority so far as the High Court staff was concerned under Article 229 of the Constitution. On a parity of reasoning it is contended by the appellants that since the Governor is the sole appointing and punishing authority under the Appointment and Punishment Rules. Article 320(3)(c) is, therefore, clearly attracted, since, according to them, if Article 229 were not there the matter would have been considered by this Court in a different light. We are unable to accept this submission since, as we have pointed out, just as the High Court staff are not serving under the Government of the State, the judicial officers are also not serving under the State Government.

34. The appellants also relied upon a decision of this Court in High Court Calcutta v. Amal Kumar Roy ((1963) 1 SCR 437 : AIR 1962 SC 1704). In this case also a submission was made in this Court that the High Court should have consulted the State Public Service Commission in superseding seniority of a munsif as a result of his exclusion from consideration for promotion in a particular year which resulted in his loss of eight placed in the cadre of Subordinate Judges at the time he was actually appointed to act as an Additional Subordinate Judges.The particular officer's case in substance was that this exclusion by the High Court amounted in law to the penalty of "withholding of promotion". It was contended that the High Court should have consulted the State Public Service Commission since Article 320(3)(c) contemplated disciplinary matters. This Court disposed of this submission by holding that losing places in a rank was not 'reduction in rank' and that no disciplinary proceedings had been started against the particular officer and hence there could be no occasion for the State Public Service Commission being consulted. It is submitted by the appellant that this Court did not reject the submission based on Article 320(3)(c), out of hand, holding that the article was not applicable. It is true that the aforesaid submission was disposed of in this particular manner by this Court in the above decision. That however, does not mean that this Court categorically held that Article 320(3)(c) was attached in the case of judicial officers. The question did not arise in that form.

35. The matter should not be considered from the angle of supremacy of one organ over the other. That will be an entirely erroneous approach. The Constitution reposes certain power in the Governor even under Article 235. He is the authority to pass the order of removal, albeit, on the recommendation of the High Court. That is the constitutional Scheme. The Governor, however, cannot pass any order, as has been done in this case, without reference to the High Court and except

on its recommendation. Solution must be found in harmony and not in cold war between the two organs.

36. The Governor could not have passed any order on the advice of the Public Service Commission in this case. The advice should be of no other authority than the High Court in the matter of judicial officers. This is the plain implication of Article 235. Article 320(3)(c) is entirely out of place so far as the High Court is concerned dealing with judicial officers. To give any other interpretation to Article 320(3)(c) will be to defect the supreme object underlying Article 235 of the Constitution specially intended for protection of the judicial officers and necessarily the independence of the subordinate judiciary. It is absolutely clear that the Governor cannot consult the Public Service Commission in the case of judicial officers and accept its advice and act according to it. There is no room for any outside body between the Governor and the High Court.

37. The Governor in relying upon the advice of the Public Service Commission in this case took alone considerations into account and acted erroneously in passing the order of reinstatement based on the same. The order of the Governor is, therefore, constitutionally invalid and is liable to be quashed and we order accordingly.

38. That brings us to the third submission of the appellants.

39. At one stage we thought that we would not consider this submission since this may arise at the time of payment of salary for the period of suspension as the officer has already retired. We however, find that even in the writ application there was a prayer for a mandamus to the Government to disabuse the officer's full salary during the entire period of suspension upto the date of his retirement. The learned Counsel for the officer has also argued the matter fully before us. We would, therefore, deal with the same.

40. Since the order of reinstatement of August 24, 1968 is quashed the officer is reverted to the status quo ante as on the date prior to the aforesaid order. It is undisputed that he had been under suspension during that period. It submitted that on the passing of the order of reinstatement the order of suspension, merged in that order and since there is no other order of suspension passed thereafter either by the High Court or by the Governor the officer on his compulsory retirement will be entitled to his full salary as an officer who had already ceased to be under suspension. It is submitted that the principle of merger which is generally invoked when an order of dismissal is passed against an officer under suspension should apply also in the case of reinstatement.

41. We are, however, unable to accept this submission. The character of the order of dismissal and that of the order of reinstatement in a departmental enquiry is absolutely different. Suspension is a step to dismissal and may culminate in dismissal. When an officer is suspended no work is taken from him but he does not cease to be in service. When he is dismissed the link with the service is snapped and naturally the order of suspension merges ever, a suspended officer is reinstated an order which is different in content and quality from that of suspension takes, effect. The suspended officer, on reinstatement, goes back to service. A further order may have to be passed by the authority as to in what manner the period of suspension will be treated. That will be, therefore, a distinct and separate proceeding apart from the earlier departmental proceeding in which the order of reinstatement was passed. If, therefore, the order of reinstatement is set aside the officer is bound to revert to his immediate anterior status of suspension. There may be certain service rules to take care of this position but even otherwise the position will be automatic and the order of reinstatement being quashed the position of the officer, in absence of any order in that behalf from the court, will

be what he was earlier, viz., that of a suspended officer. In this view of the matter, since the order of reinstatement stands quashed and the officer had been under suspension in a departmental proceeding awaiting orders of the Governor for removal, on the recommendation of the High Court, he would have the status of a suspended officer on the date of his compulsory retirement. The officer in this case was, therefore, compulsorily retired while he was under suspension from service. It is not for us to decide whether being in such a position he would be entitled to his full salary for the entire period of suspension and we refrain form expressing any opinion on that aspect of the matter. It should, however, be observed that since the officer has already, retired it will not be necessary for the Governor to consider the Recommendation of the High Court for the purpose of removal of the officer. We, however, do not fail to see that the Government, on its own, was inclined to accept the recommendation of the High Court at the initial state.

42. In the result the appeals are dismissed and the order of reinstatement of the officer passed by the Governor stands quashed for the reasons given in this judgment. There will be no order as to costs.

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