**MYSORE HIGH COURT**

Papanna Gowda

Vs

State of Mysore

W.P. No. 1776/66

(Somnath Iyer and Ahmed Ali Khan, JJ.)

09.07.1968

**JUDGMENT**

**Somnath Iyer, J.**

1. The petitioner before us is a certain Papanna Gowda who was appointed on January 7, 1959 as an agricultural demon strator as a local candidate. A local candidate as defined by the Mysore Civil Services Rules, is one who is appointed not in accordance with the rules of recruitment. But, when he was selected to 11th August 27, l959 the Public Service Commission for appointment to that post, his services were thereafter regularised. By an order of transfer made by the Director of Agriculture on April 4, 1954, he was transferred and posted as chemical Assistant of the Sugarcane Research Station, Mandya, in the Department of Agriculture.

2. When the petitioner was working in that research station, a law made by the State legislature, called the University of Agricultural Sciences Act, 1963, came into force on April 24, 1964. Under that law, a University for the development of agriculture, animal husbandry and allied sciences, was established, and, under S. 7 of that Act, there was a transfer ; of certain colleges to that University, and, consequent disaffiliation of those colleges from the Karnatak University or the University of Mysore.

3. Sub-section (4) of that section provided for the transfer of the control and management of certain other research and educational institutions in the department of 2griculture and two other departments of the State Government was empowered to issue in that regard . Sub sec. (5) statutorily transferred to the University, person employed in the colleges for whose disaffiliation sub-sec. (1) provided and in the research and educational institutions whose control and management could be transferred to the University under sub-sec. (4) and (5) read.

> "7. Transfer of certain colleges and institutions to the University.
> (1) Notwithstanding anything contained in the Karnatak University Act, 1949 and the Mysore University Act, 1956, or the Statutes, Ordinances, Regulations and orders made thereunder, the College of Agriculture, Dharwar, the College of Agriculture, Hebbal, and

the Mysore Veterinary College He gnathic all, in from such date as the State Government may the Official Gazette specify (hereinafter in this section referred to as the appointed day), be disaffiliated from the Karnatak University or the University of Mysore', as the case may be, and shall be maintained by the University as constituent Colleges.

4. The control and management of such research and educational institutions of the department of Agriculture, the department of Animal Husbandry and the Department of Fisheries of the State Government shall as from such date as the State Government may by order specify, he transferred to the University and thereupon all the properties and assets, and liabilities and obligations, of the State Government in relation to such institutions shall stand transferred to, vest in, or devolve upon, the University.

(5) Every person employed in any of the colleges specified in sub section. (1) or in any of the institutions referred to in sub-sec. (4) immediately before the appointed day or the date specified in the order under sub-sec. (4), as the case may be, shall, as from the appointed day or the specified date, become an employee of University on such terms and conditions as may he determined by the State Government in consultation with the Board."

It will be observed that there is some deficiency in the language of sub-sec. (4), but it is nevertheless clear that the power conferred on the Government under that sub-section included not merely the specification of the date from which the control and management of the institutions referred to in that sub-section shill stand transferred to the University, but also the power to make a sub section of those research and educational institutions whose control and management should stand so transferred.

By a notification of Government made on September 29, 1965 the control and management of a large number r of research and educational institutions stood transferred to the University with effect from October 1, 1935, and, one of those research institutions was the Agricultural Research Institute, Mandya. It is not disputed that the Sugarcane Research Station, Mandya, to which the petitioner was transferred on April 4, 1964, is a unit of the Agricultural Research Institute, Mandya, to which the notification referred.

4. The consequence of the notification which emanated' from sub section (4) and (5) or S. 7 was that that research institute became part of the University organization under sub-sec. (4) and the petitioner became an employee of the University under sub-sec. (5). The petitioner who felt dissatisfied with the change of employment so statutorily brought about, made representations to Government that he should be allowed to continue as a Government servant in the department of Agriculture to which he belonged, but since no useful result ensued from those representations, he has presented this writ petition in which he seeks a declaration that subsections. (4) and (5) of S. 7 of the University of Agricultural Science Act. 1963, which will hereafter be referred to as the Act are unconstitutional and invalid, and, a further declaration that he continues to be a civil servant under the State Government.

5. It was argued by Mr. Jois on behalf of the petitioner that subsets. (4) and (5) of S. 7 of the Act, amounted to an infraction of the fundamental right created by Arts. 14 and 16(1) of the Constitution and that they transgress the provisions of Art. 311(2). The argument constructed was

that under sub-sec. (5) there is a removal of the petitioner from a civil post under the State, in disobedience to the provisions of Art. 311. The argument resting on Arts. 14 and 16 was that the petitioner has been subjected to hostile discrimination by sub-sec. (5) which directs his statutory transfer to the University.

6. Before proceeding to consider these submissions, we should set out the undisputed facts.

> It will be recalled that the petitioner was selected by the Public Service Commission for appointment as an agricultural demonstrator in the department of Agriculture of the state, on August 27, 1959, and, soon thereafter, his services were regularised. The allegation in the affidavit, is, that between the date of such regularisation and October 1, 1965, from which date the control and management of the Agricultural Institute, Mandya, in which the petitioner was working, stood transferred to the University, as many as three hundred and ninety nine persons were appointed as agricultural demonstrators, and, that many of then were appointed as local candidates. Rule 8(27) (A) of the Mysore Civil Services Rules contains the definition of a local candidate which reads.
> "8. In these rules, unless the context otherwise requires:-
> (27A) 'Local Candidates'-A 'local candidate in service' means a a temporary Government servant not appointed regularly as per rules of recruitment to that service.".

7. The petitioner's affidavit states that all these 399 persons were appointed temporarily, and, that while many of those persons who were appointed subsequently are still continuing as agricultural demonstrators in the State service, the petitioner who had been appointed before these temporary appointments were made, has been selected for transfer to the University and so has been discriminated against.

8. We are informed that, in consequence of the transfer of the control and management of the institutions refered to in S. 7(4) of the Act, 205, class III posts the post of an agricultural demonstrator is a class III post- became unavailable on October 1, 1965, which, is the relevant date for our present purposes, in the department of Agriculture, since, those posts were posts in the research and educational institutions which now have become part of the University organization.

9. Mr. Jois maintained the argument that the petitioner, who was a Government servant, had the right to continue to stay in Government service, until he was removed by a process known to law and that such removal was not possible even by the legislature under a provision like S.7(5) of the Act.

10. It was also submitted that in consequence of the transfer of the control and management under sub-sec. (4) of S. 7, the posts in the institutions so transferred stood abolished, and, that when there was such abolition, the petitioner could not have been directed to seek an employment in the University to the exclusion of the hundreds of other temporary employees who were subsequently appoints, d and so were junior to him. That the legislature did not have the competence to make a statutory change of masters under S.7(5) was what we were asked to say.

11. It is seen from many portions of the counter- affidavit produced by Government of which the deponent is one of its undersecretaries, that there is no controversy on facts. The allegations of fact in the petitioner's affidavit are admitted in that counter-affidavit.

12. In paragraph 4 of the petitioner's affidavit, it was stated that the post of an agricultural extension officer, a research and teaching assistant and that of an agricultural demonstrator and an agricultural demonstrator (extension officer) are all equivalent and inter-changeable posts. The truth of this allegation was admitted in para 5 of the counter-affidavit. It was admitted in para 6 of the counter-affidavit that a large number of local candidates were appointed as agricultural demonstrators by the Director of Agriculture as stated in para 5 of the petitioner's affidavit in which He stated that as many as 399 persons were so appointed after the petitioner's appointment was regularised.

13. In para 8 of the petitioner's affidavit, lie stated that on October 1, 1933, he happened to be working in the Sugarcane Research Station, Mandya which stood transferred to the Agricultural University." He added that he was not an employee of the Research Station as such, but, that He was holding the post of an Agricultural demonstrator in the Agricultural Department para 10 of the counter-affidavit traversed this allegation and it reads.

> "As stated by the petitioner himself, the Agricultural Department did not recruit any personnel specially to carry on the research work in the Research Institute. The persons who had been appointed as Agricultural Demonstrators were posted to these posts as they were interchangeable in nature."

14. It is clear from these affidavits that the post of a chemical assistant in the Sugarcane Research Institute, Mandya, which the petitioner was holding on October 1, 1965, and when that research institute became part of the University, belonged to the cadre of agricultural demonstrators in the Department of Agriculture. It is equally clear that the appointment of persons to research institutes like the Sugarcane Research Station, Mandya and others which stood transferred to the University, was not made on the basis of any special attribute, such as, any special proficiency; experience and the like and that those persons who had peen appointed as agricultural demonstrators were posted to those research stations since the two posts were interchangeable.

15. It is in this background that we should examine the validity of the postulate that sub-secs.(4) and (5) of Section 7 of the Act are unconstitutional. It is to our mind plain that the challenge to the constitutionality of sub-sec. (4) is groundless, since all that it does is to vest the control and management of certain units of the department of Agriculture of the State, in the University. The transfer of such control and management to the University and the transfer of their properties and assets to it was, in our opinion, within the competence of the legislature, and, Mr. jois appearing for the petitioner did not dispute that it was so. Indeed, he informed us that lie would restrict his challenge only to sub-sec.(5) and so, we proceed to examine the sustainability of this challenge.

16. That sub-section consists of two parts. Its main purpose is to bring about a change of employment. It brings about such change with respect to two classes of employees. One class consists of employees who were working in the colleges enumerated in sub-sec.(1) which stood

disaffiliated from the respective University. We are informed that all those colleges were Government colleges and that their staff consisted of persons who had been transferred from the department of Agriculture. But, with this class, we are not concerned in this case.

17. The other class consists of persons employed in the institutions transferred to the University under sub-sec.(4). But, sub-sec.(5) provided that employees belonging to both these classes, shall, from the date to which it refers, become employees of the University on such terms and conditions as may be determined by the State Government in consultation with the Board of Regents of the University.

18. It is, however, clear that although sub-sec. (5) does no more than to say that those employees shall become with effect from a Particular date employees of the University, in such statutory transfer, is implicit their discontinuance from the old service to which they belonged, and, the reference to such old service in the course of this judgment will be to Government service in the department of Agriculture, with which alone we are concerned in this writ petition.

19. The twin question which therefore arises is whether it was within the competence of the legislature to make a law providing for the statutory transfer of a Government servant from Govt. service to a statutory like the body University and whether such transfer which necessarily removal from Government service, is, possible under such law.

20. In support of the postulate that their was legislative competence to make a law providing for such matters, Mr. Special Government Pleader depended upon the 41st entry of the State List, which authorises legislation in the field of State Public Services. The scope of the legislative field of this legislative entry, according to him, was so plenary that it empowered an alteration in the conditions of service. of a Government servant unilaterally, so as to result in discontinuance in government service.

21. But, the plenitude of the 41st entry of the State List with with respect to State Public Services, about which the State Legislature can make a law, bestows no competence to make a law which transfers without his consent a person holding a civil post under the State to a post or office which is not, if such transfer results in removal from State service which Art. 311 of the Constitution forbids. Such legislation is also not possible in the field of the suggested 11th and 14th entries in the State List.

22. The topic of the l 1th entry is education including Universities and that of the 14th entry is "agriculture, including agricultural education and research..... But, it is clear that these entries do not authorise a law which compulsorily transfers a Government servant in one of the departments of the State to a post outside Government service. Such substitution of a new master for a Government servant which necessarily involves his discontinuance in the service of the State, is without competence when the discontinuance has the attribute of removal, which may he unexceptionable in an appropriate case, when there is an abolition of the civil post.

23. In the present case, it is irrefutable that an abolition of a corresponding number of civil posts was the consequence following from the transfer of the institutions by sub-sec. (4). That is also the elucidation made on behalf of Government in more than one part of its counter-affidavit. The relevant part of para 9 of the counter-affidavit reads ;

> After transfer of the institution, the number of posts available in such institutes stood abolished in the Department of Agriculture, as persons who were working in such institutions have been transferred along with the institutions by virtue of the Act itself."
>
> A similar postulate is contained in para 12 which reads:-
>
> I submit that this case comes under the heading 'abolition of posts' due to the transfer of certain institutions to the University. It is true that not all the posts of Agricultural Department in the cadre of Agricultural Demonstrators have been transferred to the University, except those that were existing, in the institutions which stood transferred. But the fact remains that the strength of the Agricultural Department is depleted or reduced to the extent of the number of posts transferred to the University by transferring the institutes and the posts available in those institutes:-

24. It appears to us that the effect of the transfer of the institution to the university is faithfully set out in paras 9 and 12 of this counter-affidavit. when than situations stood transferred to the university posts which were in the department of agriculture of which those institutions were a part disappeared and to that extent. there was the abolition of those posts which were no longer available in the department on such depletion as the counter-affidavit calls it the strength of the cadre stood attenuated and so there should necessarily be a cessation of the services persons whose number should be equal to the number of posts abolished. if the provision in sub-section (5)of section 7 of the act for the statutory transfer of the persons who happened to be holding the posts when they stood abolished in that way is in reality the termination of their service under the state the question is whether those were the persons on whom such abolition can have such impact.

25. That is a question which concerns matter relating to employment or appointment within the meaning of that expression occurring in art. 16 (1) of the constitution and when there is an abolition of posts in a particular cadre of government service those who have to lay down office are those who were appointed last when there is a deprivation of the right to hold a civil post consequent on abolition the selection of persons whose service should be terminated should be made on a rational principal on a principal which does not that selection should be made on the basis that the persons whose service should be terminated are those who are junior most allowing the posts which had not been abolished to be occupied by an equivalent number of persons who are senior to them

26. In that situation, it seems to us that the principle 'last come first go has the fullest application, and the correctness of that view stands reinforced by the observations made by the Supreme Court in *Chimanlal Shah v. Union of India*[1] in which it said this : This is not a case where services of a temporary employee are being retrenched because of the abolition of a post. In such a, case a question may arise as to who should be retrenched when one out of several posts is being retrenched in an office ..... A question of discrimination may arise in a case of retrenchment on account of abolition of one of several temporary posts of the same kind in one office but can in our opinion never arise in the case of dispensing with the services of a particular temporary employee on account of his conduct being unsatisfactory." (page 1860).

27. Again, in *C. S. Ramaswamy v Inspector General of Police Mysore*[2] the Supreme Court made the followings education when discussing rule 2 (c) of the Mysore Seniority Rules :

> "Now, R. 2 (c) as it stands merely provides officiating in a higher rank when they are seniority officiating as such ; it is between not an express rule as to the manner in which on should be made where reversions are necessary on account of exigencies of service. The rule, therefore, cannot be held as expressly providing for the. principal of 'last come first go, which one is familiar in industrial law. speaking, therefore, the petitioners cannot claim that Rule Strictly e 2(c) has been violated by their reversion, for it does not provide for reversion and only provides for the seniority of officers when officiating in a higher grade. Even so, it may be conceded that when reversion takes place on accounts of exigencies of public service, the usual principle is that the junior most persons among" those officiating in clear or long term vacancies are generally reverted to make room for the senior officer coming back from deputation or from leave, etc." (pages 180 and 181).

28. This exposition makes it clear that the principle of 'last come first go' is the normal principle on the application of which a reversion on account of exigencies of public service should stand regulated.

29. It is undisputed in the present case that although 205 class III posts in the department of Agriculture stood abolished in consequence of the transfer of the institutions under s. 7 (4) of the act there were as many as 399 persons who appointed as agriculture demonstrators after the petitioner was appointed. If the exigency such as that which was presented by such abolition demanded the reversion of someone or the termination of his service such recension or termination should have conformed to the principle of last cone first go and if that had been done and among the 399 subsequent appointees the services of 205 who were appointed last had been terminated the petitioner would still have continued in service along with another 194 persons who were still junior to him.

[1] AIR 1964 SC 1854 [2] AIR 1966 SC 175

> But, what regulated the termination of services which was the inevitable consequences of hat the petitioner happened to be working con' October 1, 1965, that shat the in at n the Research Station which became part of the university Organization with effect from that date.

30. It is admitted in the counter-affidavit produced on behalf of government that there was no separate recruitment to any of the research institutes which stood transferred to the university and that the petitioner was appointed to the institute as he was a graduate of the university and was considered by the department to be fit to carry on the work of the institute. Para 9 of the counter-affidavit which says so reads :

> "The Sugarcane Research Station, Mandya was under the control of the department.
> The petitioner was appointed as Agricultural Demonstrator and he was liable to be posted to any of the equivalent post. There was no separate recruitment to the research institutes. As he was a graduate of university, the department considered him to be fit for the work

to be carried on in the institute."

31. The compulsory transfer of the petitioner or of any other persons was the University merely for the reason that he was an employee in the institution transferred to it was beyond the competence of the legislature such transfer which took him as it if of course did out of government service in clear contravention of the provisions of arts. 14, 16, and 311 of the constitution amounted to an illegal termination of his service under the state.

32. We do not subscribe to the view pressed on us by Mr. special Government Pleader that the competence to make a law providing for the termination of government service in that way and for the substitution of service in some other stautory body like the university springs from the 41st entry of the state list or from the 11th or the 41th entries on it

33. The pronouncement of the supreme court in *Roshanlal Tandon v. Union of India*[3] on which deyendence was placed in support of this postulate can be of no assistance to it since all that was elucidated in that case was that there could be an unilateral alteration of the conditions of service of a Government servant. But such unilateral alteration should be a comprehensive alteration of the conditions of service of persons be longing to all particular cadre and not an alteration in the case of certain individuals only, unless they fall within a reasonable classification.

34. We see no substance in the argument that those persons who were employed in the institutions which stood transferred to the University, by reason of the very fact that they so worked in those institutions, fall into a reasonable classification. We have no doubt they do not. Moreover, as we have observed already, the necessary implication of the transfer of which sub-sec. (5) of S. 7 speaks, is that employees of the transferred institutions cease to be Government servants, and, such cessation is removal from a civil post, which is not possible except in adherence to Art. 311 of the Constitution, and there was none.

[3] AIR 1967 SC 1889

35. The discussion so far made leads to the conclusion that the transfer of the petitioner under S. 7 (5) to the Agricultural University as its employee which was accomplished by an invalid piece of legislation was ineffective and the petitioner continued and continues to be a Government servant as an Agricultural Demonstrator until he ceases to be one by some process know n to law.

36. But it was said that the view that we take, does not receive support from the decision of the High Court of Punjab in *Amulya Kumar v. Union of India*[4] *:* That was a case in which two persons who were perm anently employed in an educational institution known as the Indian Institute of Technology at Kharagpur, which, was at one stage a Government educational institution, became employees under that Institute when, under the India Institute of Technology (Kharagpur) Act, 1956, that Institute as declared as an institution of national importance. The act provided for its incorporation and matters connected therewith, and, in consequence, those two persons ceased to be Government servants and became employees of the Institute. S. 5 of that Act provided that every person who was permanently employed in the Institute in mediately before the commencement of the Act shall become an employee of Institute and shall hold office or service therein by the same tenure and by the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as He would have held the same on the date of the commencement of the Act.

37. The argument advanced before the High Court of Punjab was that S. 5. which in effect, terminated the services of those two persons under Government, and, transferred them to the Institute which was a body incorporate and which was not a department of Government, resulted in a deprivation of wider avenues of promotion and other advantages and amounted to an impermissible termination of Government service. That contention was repelled, and it will be seen from the discussion in the judgment that many factors persuaded that view. The first of them was that the two persons who complained against the statutory transfer had been permanently employed in the Institute, and the High Court of Punjab was of opinion that if by reason of the special training, proficiency and experience they would have acquired from such employment they were continued in the Institute when it became a body incorporate, no complaint could he made about it. The other feature on which dependence was placed was that no prejudice had really been caused to those Government servants by reason of their transfer in that way, since, they continued to hold the office in the Institute by the same tenure, on the same remuneration and upon the same terms and conditions, and with the same rights and privileges as to pension, gratuity, provident fund and the like. It was also pointed out that the Visitor functioning under the Act who was the President himself had to accord his approval to any change in the conditions of service without which no such alteration was possible, and the concluding part of the judgment reads:

> "The service of all the Government servants who were permanently there had to be put at the disposal of the Institute apparently because of their special experience and training for work in the Institute and because they were
> working there." (P. 791).

[4] ILR 1960 Pun 781

> It would be observed that the High Court of Punjab did not investigate the question whether the termination of the lien which those Government servants laid under the Fundamental l Rules was illegitimate and observed:
> "It is equally pointless to examine the ancillary argument-raised on behalf" of the petitioners that their lien had been terminated under the Fundamental Rules which could not ordinarily be done even with their concent

38. There is no similarity between that case and the one before us. The fundamental difference between the Act under which there was a transfer in that case and the Art with which we are concerned is, that the latter dues not preserve the service conditions, privileges, tenure and the like in manner in which S. 5 of the former Act did. On the contrary S. 7 (5) of the Act which is impeached in the present case says that the Government employee who becomes an employee of the University shall become such employee "on such terms and conditions as may be determined by the State Government in consultation with the Board". The service conditions and the privileges to which those transferred employees had become entitled as Government servants, no longer became applicable to them, and they had to enter service under the University on such terms and conditions as may be determined by the State Government in consultation with the Board of Regents of the University. There was thus the annihilation of all the old service conditions and privileges and provision for "substitution of new service conditions and privileges and like such as might he determined in that way without reference to the employees.

39. One more feature to which we should refer in this context is that while the Act under which the Kharagpur Institute became it body incorporate, preserved even the right of the transferred employees to pension, leave, gratuity and provident fund, the preservation of such right was not made under the impugned Act. On the contrary, S. 32 of the impugned Act reads :

> "Pension and Provident Funds:-
> (1) Where any pension fund, or provident fund has been constituted by the University for the benefit of its officers, teachers or servants, the State Government may declare that the provisions of the Provident Finds Act, 1925 (Central Act 19 of 1925) shall apply to such fund as if it were a Government Provident Fund.
> (2) Persons in Government services transferred to the University tinder section 7 shall he entitled to pension under the Mysore State Civil Services Rules or such other rules as were applicable to them immediately before the transfer and such pension shall be payable by the State Government and shall be an expenditure charged on the Consolidated Fund of the State."
> The limit protection given to the transferred employee was the reservation of a right to pension flowing from his service in Government till his transfer. and there was the deprivation of the right to pension claimable in the same way from Government or from the University flowing from the future services which he may render the University.

40. So it will be seen that the features of the two laws are not similar, and even if those features have any relevance in the investigation into legislative competence, it becomes oblivious that that dissimilarity is what does not assist the argument founded on the pronouncement in Amulya Kumar"s case (4)

41. But it was said that even on legislative competence, Amulya Kumar"s case (4) decided that legislature had the power to bring about cessation of Government service by a legislation like the one before us. In support of this argument, our attention was asked to the dependence placard on the 70th entry of the union List by the High Court of Punjab, which, in its view, conferred plenary power on the legislature to provide for any change or even for termination of service.

> But it will he seen that that observation in the judgment cannot be separated from the context. The precise elucidation made respect to that matter reads:-
> Under Art. 309, the legislature would be competent to provide for and to regulate the conditions of service by even altering the not and although Section 5 of the Act expressly preserves and guarantees the same conditions as governed the petitioners before the enactment of that statute, but even if it puts an end to the service of the petitioners as Government employees, the plenary power of the legislature in this behalf conferred by entry' 70 in List I would entitle the legislature to provide for any change or even for termination of service subject to Art. 311 of the Constitution and other Articles."

42. This enunciation does not support the postulate which was placed before us that notwithstanding Art. 311 of the Constitution or the other articles in it, the power of the State

Legislature under the 41st entry of the State List authorized legislation which can terminate the service of a Government servant. The High Court of Punjab made it clear that the power of Parliament under the 70th entry in List I to provide for a change or even termination of service, was subject to Art. 311 and the other articles of the Constitution.

43. The enunciation so made is precisely the view that we take, if we may say so which respect. The enunciation to which we subscribe and the view that we take, as already stated by us, is that although the State Legislature has the power to make a law altering unilaterally the conditions of service of a Government servant, such law should not be repugnant to Art. 311 or Arts. 14 and 16 of the Constitution, and, if such alteration of Conditions of service results in termination, such alteration could not be directed only against specific individuals unless they fall within an intelligible classification. In the case before us, there was no such classification. All that the legislature did was to say that every Government Servant working in a particular institution on a particular date should become the employee of the University. That, in our opinion, is not the classification which could authorise termination in that way.

44. So, it is that feature of the legislation which persuades the view that the legislature had no competence to substitute for the Government servants working in the institution referred to in sub-sec. (4), a new master, or to terminate their service in a civil post.

45. So, our pronouncement is that that part of S. 7(5) of the Act by which there was a compulsory transfer to the University of those Govern meat Servants whose services under the State could not have been discontinued when the research and educational institution to which sub-Ss. (4) refers became part of the University organization, is an unconstitutional piece of legislation which did not affect the right of the petitioner to continue in Government service as an agricultural demonstrator in the Department of Agriculture.

46. We do not agree that there are any lathes on the part of the petitioner which can disentitled him to the relief which flows from our pronouncement. The petitioner's reply affidavit discloses that when lie acquired knowledge that lie stood transferred to the University, he made a representation to Government through the University authorities and that this writ petition was presented when the University did not forward it to Government. So it could not be said that there has been any delay in the prescnt3tion of this writ petition.

47. The petitioner who, as decided by us, has not ceased to hold a civil post under the State, should now be taken back to the service of the State from the service of the University, and, that part of his service under the University which he has so far rendered shall be treated as service rendered under Government subject to the adjustment of emoluments record by hire from the University against the pay in his civil post. We make a direction accordingly. No costs.
Petition Allowed.