

Calcutta Electric Supply Corporation Vs Ramratan Mahato

Court: Calcutta High Court

Date of Decision: March 11, 1974

Acts Referred: Constitution of India, 1950 " Article 311, 311(2)
Industrial Disputes Act, 1947 " Section 10, 10(1), 2(kk), 25F(b)
Specific Relief Act, 1963 " Section 14(b), 21, 21(b)

Citation: 78 CWN 628

Hon'ble Judges: S.K. Mukherjee, J; A.K. Janah, J

Bench: Division Bench

Advocate: P. Ginwalla, P.N. Chunder and Arijit Chowdhury, for the Appellant; S.N. Banerjee and Kanika Banerjee, for the Respondent

Final Decision: Dismissed

Judgement

Janah, J.

This is an appeal under Clause 15 of the Letters Patent from a judgment passed by S.K. Datta J. in S.A. No. 291 of 1971 on

February 2, 1973. The facts giving rise to this appeal are briefly as follows:

The respondent instituted a suit against the appellants alleging that he had been working under the appellant Corporation for several years

temporarily in place of bearers absent on leave. He was appointed in the permanent post of Vendor-cum-Cleaner-cum-Plate-washer by the

appellant Corporation from 1.2.68. The respondent automatically became permanent in his post from 1.8.68 on completion of 6 months"

continuous service. The second appellant by a verbal order dispensed with the service of the respondent on 12.11.68 without assigning any reason

or holding any enquiry. On this allegation the respondent instituted the suit for declaration that the verbal order of termination of the respondent"s

service was illegal, void, inoperative and ultra vires, that the respondent was and continued to be in the permanent service of the appellant

Corporation and he was entitled to salary and damages. He also prayed for an injunction restraining the appellant Corporation from issuing any

written order of dismissal without following the legal procedure.

The suit was contested by the appellants by filing a joint written statement. The defence taken was that the respondent was merely a casual

labourer and he was paid on hourly basis. It was alleged that being a casual labourer the respondent could not claim any right of enquiry or

observance of legal procedure in the matter of termination of his employment since the respondent held the job at the pleasure of the appellants. It

was alleged that casual labourers are not appointed in writing and their services are liable to be dispensed with by verbal order. It was further

alleged that in order to absorb the respondent in a permanent vacancy the appellants offered him the post of lamp-lighter but the plaintiff refused to

accept the same and by his refusal the plaintiff forfeited the right to be absorbed in the permanent post and he remained as Casual labour. On this

ground it was alleged that the plaintiff was not entitled to any relief in the suit filed by him.

2. The trial court found that the respondent was a temporary workman under the appellant Corporation. It also found that there were breaks in

service of the respondent and he did not render continuous service for a period of 6 months during the period from 1.2.68 to 11.11.68 and

therefore the respondent was not entitled to get 7 days" notice as provided for in the standing orders. The trial court further found that the

respondent was offered the post of lamplighter by the appellants before his dismissal from service but the respondent refused to accept such offer.

The trial court held that the verbal order of dismissal of the respondent was legal and valid and it also held that the suit filed by the respondent was

not maintainable. On these findings the trial court dismissed the suit. On appeal by the respondent the Lower Appellate Court affirmed the finding

of the trial court that the respondent was a temporary workman in the employment of the appellant Corporation during the period from 1.2.68 to

12.11.68. But the Lower Appellate Court disagreed with the finding of the trial court on the question as to whether there was intermittent breaks in

service of the respondent and held that the respondent worked as a temporary Vendor-cum-Cleaner-cum Plate-washer for more than 6 months at

a stretch during the relevant period. The Lower Appellate Court took the view that the appellant Corporation could not dispense with the service

of the respondent who was a temporary workman having worked continuously for more than 6 months without giving him one week"s notice or

without holding an enquiry before dispersing with his service, in view of the Standing Order No. 13 (b) of the Standing Orders of the appellant

Corporation which provides that the services of a temporary workman who has worked continuously for 6 months can be dispensed with after

giving him a week"s notice. The Lower Appellate Court was of the view that the termination of service of the respondent was in breach of the

Standing Orders and as such it was in breach of a Statutory obligation which prevented the termination of service of the respondent except in the

manner prescribed by the Standing Orders. Upon this view the Lower Appellate Court allowed the appeal and decreed the suit and passed the

declaration in favour of the respondent that the order of dismissal was illegal and void and that he continued to remain in the employment of the

appellant Corporation.

3. Against the decision of the Lower Appellate Court the present appellants filed a Second Appeal in this Court, namely S.A. No. 291 of 1971.

The said appeal came up for hearing before S.K. Datta, J., and his Lordship affirmed the judgment and decree passed by the Lower Appellate

Court and dismissed the Second Appeal. His Lordship took the view that the Standing Orders on being duly certified became the statutory terms

and conditions of service. Therefore, when there was a breach of any provision of the Standing Orders the aggrieved party had the legal right to

challenge such order as being null and void and to obtain a decree declaring its statutory invalidity. His Lordship also took the view that a case for

declaration of a statutory invalidity of an act of dismissal of an employee is wholly different from the enforcement of contract of personal service.

Upon this view his Lordship dismissed the appeal.

4. Mr. Ginwalla appearing for the appellants has contended before us that a declaration as sought for in the present case can only be granted in a

case where the employer, by its constitution, can only act in a particular way in terminating the employment of his employee. He has contended that

in no other case such a declaration can be granted because that would amount to granting a decree for specific performance of a contract for

personal service which is clearly barred by Section 14(b) of the Specific Relief Act, 1963, which corresponds to Section 21(b) of the Specific

Relief Act, 1877. Mr. Ginwalla has argued that a breach of statutory provision does not make an act invalid or a nullity. It was argued that in such

a case the act may be wrongful illegal and the remedy of the aggrieved party would lie in an action for damages. It is further argued that it is only

the breach of a provision of a statute which is a part of the constitution of that particular body, which would make such an act invalid. Reliance was

placed by Mr. Ginwalla on the decision of the Supreme Court in (4) Executive Committee, U.P. Warehousing Corporation Vs. Chandra Kiran

Tyagi, for the proposition that ordinarily a declaration to enforce a contract of personal service will not be granted. The only exceptions to this

rule are: (1) where a public servant who has been dismissed from service in contravention of Article 311 of the Constitution, (2) reinstatement of a

dismissed worker under Industrial Law or by Labour or Industrial Tribunal and (3) a statutory body when it has acted in breach of a mandatory

obligation imposed by statute. The question for decision before the Supreme Court in that case was whether certain Rules and Regulations framed

under the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 had statutory force and whether a violation of such

Regulations would entitle the employee of the Corporation to a declaration that his dismissal from service was null and void and he was entitled to

be reinstated with full pay and other emoluments. Their Lordships reviewed a number of English decisions as well as decisions of the Supreme

Court and came to conclusion that the Regulations were made under the power reserved to the Corporation u/s 54 of the Act and these

Regulations lay down the terms and conditions of relationship between the Corporation and its employees. The order made in breach of

Regulations would be contrary to such terms and conditions but would not be in breach of any statutory obligation. Their Lordships further held

that a violation of regulation 16(3) as was alleged in that case, can only result in the ordered dismissal being held to be wrongful and, in

consequence, making the appellant liable for damages. In coming to the conclusion their Lordships at page 1251 of the report observed as follows:

The law relating to master and servant is clear. A contract for personal service will not be enforced by an order for specific performance nor will it

be open for a servant to refuse to accept the repudiation of a contract of service by his master and say that the contract has never been terminated.

The remedy of the employee is a claim for damages for wrongful dismissal or for breach of contract. This is the normal rule and that was applied in

Barbar's case, 1958 (1) All. E.R. 322 and Fraud's case, 1962 (3) All. E.R. 633. But when a statutory status is given to an employee and there

has been a violation of the provisions of the statute while terminating the services of such an employee, the latter will be eligible to get relief of a

declaration that the order is null and void and that he continues to be in service, as it will not then be a mere case of a master terminating the

services of a servant. This was the position in Vine's case, 1956 (3) All. E.R. 939.

5. The next case relied upon by Mr. Ginwalla in support of his contention is (5) Indian Airlines Corporation v. Sukdeo Rai, AIR 1971 S.C. 1823.

In that case the respondent who was an employee under the Indian Airlines Corporation was dismissed on being found guilty of certain charges

after an enquiry was held by the Corporation. The respondent in that case thereafter filed a suit for a declaration that his dismissal was in breach of

the procedure laid down by the Regulations made by the Corporation and, therefore, the dismissal was illegal and void. It was held by the

Supreme Court that though the Corporation's employee is dismissed in contravention of Regulations made by it under the Airlines Corporation Act

(1953), the dismissal cannot be declared as null and void as the Act did not cast any obligation upon Indian Airlines Corporation to appoint

employees under particular type of contract or to terminate them on specific grounds. In dealing with this aspect of the case their Lordships at page

1834 of the report observed:--

The regulations contain the terms and conditions which govern the relationship between the Corporation and its employee. Though made under the

power conferred by the statute, they merely embody the terms and conditions of service in the Corporation but do not constitute a statutory

restriction as to the kind of contracts which the Corporation can make with its servants or the grounds on which it can terminate them. That being

so, and the Corporation having undoubtedly the power to dismiss its employees, the dismissal of the respondent was within jurisdiction, and

although it was wrongful in the sense of its being in breach of the terms and conditions which governed the relationship between the Corporation

and the respondent it did subsist. The present case, therefore, did not fall under any of the three well recognized exceptions, and, therefore, the

respondent was only entitled to damages and not to the declaration that his dismissal was null and void.

6. Reliance was also placed on behalf of the appellants on a decision of the Supreme Court in Co-operative Central Bank Ltd. and Others Vs.

Additional Industrial Tribunal and Others, . In that case the Supreme Court was considering the effect of bye-laws of a Co-operative Society

framed in pursuance of the provisions of the Act. The contention was advanced on behalf of the appellants in that case that the bye-law which

contain the conditions of services were themselves laws so that any direction made by an Industrial Tribunal altering a condition of service would

be an order contrary to law and therefore illegal. Their Lordships held that the bye-laws framed by a co-operative society in pursuance of the

provisions of the Act can not be held to be law or to have the force of law. Their Lordships observed that the bye-laws that can be framed by the

society under the act are similar in nature to the Articles of Association of a Corporation incorporated under the Companies Act.

7. The next case cited before us is (10) Workmen of Motipur Sugar Factory (Private) Limited Vs. Motipur Sugar Factory, . That case arose out

of a reference u/s 10 of the Industrial Disputes Act, 1947. The question referred to the Tribunal was whether the discharge of some workmen was

justified. It appeared that the employer had failed to make an enquiry before dismissing the workmen. The Supreme Court held that the scope of

the reference was wide enough to entitle the tribunal to investigate the reason for discharge and the entire matter would be open before the tribunal

and it will have jurisdiction not only to go into limited questions open to a Tribunal where the domestic enquiry has been properly held, but also to

satisfy itself on the facts adduced before it by the employer whether the dismissal or discharged was justified. On the basis of this decision it was

argued that if the effect of failure to hold an enquiry before dismissing the employee was to render the order of dismissal void in law, there would

be no point in the tribunal deciding for itself on the evidence adduced before it whether charges have been really made out or not. It was argued

that this indicate that the act of dismissal in such a case was not void but was a mere irregularity.

8. Counsel for the appellant also relied upon the decision in J. Molby D'Cruz and others v. The Chief Administrative Officer Travancore Minerals

Ltd. and others, AIR 1968 Kerala 121, in support of his contention than an order of dismissal without following the provisions of the Standing

Orders may be wrongful, and illegal, giving rise to a cause of action for damages for breach of contract or for wrongful dismissal, but it cannot be

said the person wrongfully dismissed must still be deemed to be in service so that he continues to earn wages notwithstanding the termination of his

employment.

9. Mr. Banerjee appearing on behalf of the respondent has contended that an organisation or a body which has statutory duties to perform, is a

statutory body to the extent of that statute or for the purpose of that statute. Alternatively, he has argued that even if such an organisation or body

is not a statutory body but if it has some statutory obligations to perform, the nonperformance of these obligations will render its act void, and such

an act would therefore be a nullity. In other words Mr. Banerjee contends that by the Standing orders the appellants were required to act in a

particular manner before terminating the service of the respondent, but the appellants not having followed the procedure laid down by the standing

Orders then act is a nullity, and the court, under such circumstances, is entitled to make a declaration treating the impugned order as such. In

support of his contention Mr. Banerjee has relied upon the decision in (7) The State of Bombay and Others Vs. The Hospital Mazdoor Sabha and

Others, where it has been held that non-compliance with the requirement prescribed u/s 25F (b) of the Industrial Dispute Act, 1947 renders the

retrenchment invalid and in-operative. Reliance was also placed by Mr. Banerjee in support of his contention upon the decision in (12) Western

India Match Company Ltd. Vs. Workmen, ; (11) Workmen of Dewan Tea Estate and Others Vs. The Management, ; (1) The Bagalkot Cement

Co. Ltd. Vs. R.K. Pathan and Others, ; (8) Tata Chemical Ltd. and Ors. v. Kailash C. Adhvaryu, AIR 1964 Gujrat 265; (6) Sirsi Municipality by

its President Sirsi Vs. Cecelia Kom Francis Tellis, ; Executive Committee of U.P. state Warehousing Corporation v. Chandra Khan Tyagi, 1970

S.C. 1244; (12) The Western India Match Co. Ltd. v. Rameswar Prosad (1971) 2 Lab. I.C. 1447 and (2) Bihar State Road Transport

Corporation Vs. State of Bihar and Others, . We shall have occasion to deal with these decision later in this judgment.

10. The point for consideration in the present appeal is whether the Standing Orders framed under the Industrial Employment (Standing Order)

Act, 1946 have statutory force, and secondly, even if those have statutory force whether an order of termination of service in violation of the

provisions of the Standing Orders would make the order a nullity so as to entitle a civil court to make a declaration that inspite of the termination of

service the employee still remains in service of his employer. Generally a contract of personal service is not enforceable by specific performance

and the employee cannot be heard to say that inspite of the termination of his service he is still in employment. If his service has been wrongfully

terminated in breach of the contract for service, his remedy will lie in damages. It is only in certain exceptional cases that a civil court or a tribunal is

entitled to make a declaration that inspite of the termination of service the employee concerned will remain in the employment of his employer.

These exceptions, as has been laid down by the supreme Court, are (1) a public servant who has been dismissed from service in contravention of

Article 311, (2) reinstatement of a dismissed worker under Industrial Law or Labour or Industrial Tribunal and (3) a statutory body when it has

acted in breach of a mandatory obligation imposed by statute. But it is not every breach of a statutory provision that will entitle the employee to ask

for such a declaration. It is only when a statutory status is given to an employee and there has been a violation of the provision of a statute while

terminating the service of such an employee the latter will be entitled to get a declaration that the order is null and void and that he continues to be

in service, as it will not; be a mere case of a master terminating the service of a servant. In (9) Vine v. National Dock Labour Board, 1956 (3) All.

E.R. 939, the House of Lords upheld the order of the trial court which granted a declaration that the order of dismissal of the appellant in that case

was illegal, ultra vires and invalid on the ground that the removal of the appellant's name from the register was in law a nullity and he continued to

have the right to be treated as a registered dock worker. It was because of the status conferred by the statute upon the appellant in that case that

such a declaration was granted as it was held that the disciplinary committee had no power to terminate the employment of Mr. Vine. In the said

decision the House of Lords emphasized that the order directing the removal of the plaintiff's name from the register was not considered simply as

a case of a master terminating the service of a servant, but it was treated as one effecting the status of the plaintiff of that case. The House of Lords

observed in that case as follows:--

This is not the straightforward relationship of master and servant. Normally, and apart from the intervention of statute there would never be a nullity

in terminating an ordinary contract of master and servant. Dismissal might be in breach of contract and so unlawful but could only sound in

damages. Here we are concerned with a statutory scheme of employment...The scheme gives a dock worker a status. Unless registered, he is

deprived of the opportunity of carrying on what may have been his lifelong employment as a dock worker, and he has a right and interest to

challenge any unlawful act that interferes with this, status. If the actings here complained of were a nullity Mr. Vine (hereinafter called the Plaintiff) in

my opinion, has a clear right to have that fact declared by the court.

11. It is clear, therefore, that it is because of the status conferred by the statute on a person that such a declaration was granted in his favour, and

that case was not treated as an ordinary case of master and servant. To the same effect is the decision of the Supreme Court in the case of U.P.

State Warehousing Corporation referred to hereinbefore.

12. In the present case however no statutory status was conferred upon the respondent. The effect of the Standing Orders is to incorporate certain

provisions in the contract of service between the appellant and the respondent, but the contract still remains a contract of service. For instance, if a

workman is dismissed for misconduct in breach of a provision contained in the Standing Orders and if the matter comes up before the tribunal

under the Industrial Dispute Act, 1947, the tribunal has to see whether there is, in fact, any misconduct or not. If the tribunal finds that the

misconduct alleged has been proved it will uphold the order of dismissal notwithstanding the fact that the provisions of the standing Orders were

not complied with. The nonobservance of the provisions of the Standing Orders with regard to dismissal of an employee, therefore, does not make

the order of dismissal a nullity although it may be wrongful or illegal.

13. The decision reported in (State of Bombay v. Hospital Mazdur Sabha AIR 1960 B.C. 610 which was relied on by counsel for the respondent

is quite distinguishable. There the order of retrenchment was passed without complying with the provisions of section 25F (b) of the Industrial

Dispute Act, 1947. That is a statutory provision. But the standing Orders cannot be said to be statutory provision in that sense, although those

might have been framed under a statute. The effect of the standing Orders is to incorporate certain terms and conditions in the conditions of

service. But the terms and conditions nonetheless remain the terms and conditions of service between the master and servant.

14. The next decision relied upon by Mr. Banerjee in support of his contention reported in *Western India Match Company Ltd. Vs. Workmen*, is

also of no assistance to Mr. Banerjee. That case arose out of an Industrial Dispute in connection with the discharge of an employee on the ground

that it was in contravention of the standing Orders. It was held in that case that the employer could not enter into the agreement with the workmen

which is inconsistent with the standing Orders of the company. The terms of the standing Orders would prevail over the corresponding terms in the

contract of service and while the standing Orders are in force it is not permissible for the employer to seek their statutory modification so that there

can be one set of standing orders in respect of certain employees and another for the rest. The decision in that case, therefore, has nothing to do

with the question involved in the present case. The decision reported in *Workmen of Dewan Tea Estate and Others Vs. The Management*, which

was relied upon by Mr. Banerjee is also of no assistance to him in the present case. The question considered in that case was that the standing

orders or a company having been certified before the definition of Lay-off was introduced in the Act by an amendment; whether the management

was entitled to rely upon the said definition in support of the plea that the impugned lay-off was justified. The Supreme Court held that the

management could not be allowed to contend that as the amended section 2 (kkk) of the Industrial Dispute Act, 1947 is wider than the relevant

rule of the standing orders it should apply to the facts of that case. It was further held that after the standing orders were finally certified those

became part of the statutory terms and condition of service, and would govern the relation between the parties. This decision, therefore, does not

help the respondent in any way. The decision reported in *The Bagalkot Cement Co. Ltd. Vs. R.K. Pathan and Others*, which was relied upon by

Mr. Banerjee also does not lay down anything more than saying that once certified the standing orders constitute the statutory terms of employment

between the industrial establishment in question and their employees. The fact that these standing orders do constitute the statutory terms and

conditions of service between the employer and the employees has not been disputed before us by the appellant. The contention of the learned

counsel for the appellant has been that even though standing orders constitute the statutory terms and conditions of service these are still the terms

and conditions of service between the employer and the employees. The above mentioned cases cited by counsel for the respondent are, in our

opinion, of no assistance to his client's case.

15. The next case cited before us on behalf of the respondent is the decision in *Tata Chemicals Ltd. and others v. Kailash C. Adhvaryu*, AIR 1964

Gujarat 265. In that case the Gujarat High Court held that a suit by an employee who was dismissed in contravention of the rules contained in the

standing orders was merely a suit for declaration of statutory invalidity of the dismissal and it was not enforcement of a contract of personal service.

The decision of the Gujarat High Court in that case proceeded upon the basis that the rights and obligations created by the standing order derive

their force not from the contract between the parties, but from the provisions of the Act. They are statutory right and obligations and not

contractual rights and obligations. Therefore, if the employee is dismissed in violation of the provisions of the standing orders it would be a violation

of contractual obligation. With great respect to the learned Judge we are unable to accept this view as correct. As already noticed above it is only

in three classes of cases that the servant can obtain a declaration that his dismissal is invalid in law and is a nullity. There also be a fourth class of

cases where a statute confers a status upon an employee and if an order is made in violation of any statute and if such violation affects his status

conferred by the statute then a court of law can make a declaration that the order is a nullity. In that case before the Gujarat High Court the learned

Judge observed that where there is a breach of statutory obligation which prevents the termination of the contract except in the manner prescribed

by the statute, the dismissal being in breach of the statute, is null and void and the servant is entitled to a declaration that the dismissal is null and

void and that he continues in the employment of the master. We are unable to subscribe to this proposition of law in so far as a private employer

and his employee is concerned. It may be so in case of a statutory body whose rights and obligations are regulated by statute creating it. But the

position is quite different in the case of a private employer. In such a case a termination of service in violation of the standing orders would

nevertheless be a breach of contract between the master and servant and a dismissal in breach of contract would only sound in damages.

16. The next decision relied upon by Mr. Banerjee is *Sirsi Municipality by its President Sirsi Vs. Cecelia Kom Francis Tellis*, . In that case the

Supreme court affirmed its earlier decision that it is only in the three classes of cases mentioned hereinbefore that a declaration that a dismissal is

invalid will be made by a court or a tribunal. The Supreme Court has further pointed out that there may be fourth category of cases where such

declaration can be made, namely, where a statutory status of an employee has been affected by my order made in violation of a statute, as was

held in Vine's case. It is to be noticed also that the supreme court made a distinction between public authority or the state and a private employer,

as would appear from the following observations:--

The courts keep the state and the public authorities within limits of their statutory powers. Where a state or a public authority dismisses an

employee in violation of the mandatory procedural requirement or on grounds which are not sanctioned or supported by statute the courts may

exercise jurisdiction to declare the act of dismisses to be a nullity. Such implication of public employment is thus distinguished from private

employment in pure cases of master and servant.

17. Again, it is to be noticed, that the Supreme Court made a distinction between dismissal of an employee in the context of contractual relation of

master and servant in general and the dismissal of a servant by statutory, including local authority or body, in breach of provisions of a statute

which regulates the exercise of their power. The Supreme Court held that it is only in the latter class of cases that a dismissal in violation of

statutory provision can be declared invalid and ultra vires. Mr. Banerjee also relied upon the decision in *The Western India Match Co. Ltd. v.*

Rameshwar Prasad, (1971) 2 Lab. I.C. 1447. In that case an employee having been dismissed in violation of the standing orders by its employer,

filed a suit against his employer for a declaration that the order dismissing him from service was void, illegal and inoperative. Before the Allahabad

High Court an objection was raised on behalf of the employer that the suit for a declaration as was claimed in that case was not maintainable in

view of section 21 of the Specific Relief Act. Their Lordships of the Allahabad High Court negated that contention on the grounds that the

standing orders having provided for a particular procedure to be observed before an employee could be dismissed the impugned order which was

in violation of the said provision of the standing order was void and illegal. Their Lordships took a view that by virtue of the standing orders the

plaintiff in that suit got a statutory status and as there was a violation of the provision of the standing orders the plaintiff was entitled to the

declaration sought for. With great respect we are unable to accept this view as correct for reasons already mentioned. The Standing Orders, in our

view, do not confer any status upon the employee. It merely incorporate certain terms and conditions in the contract of service by virtue of the

statute. That is quite different, in our opinion, from giving a statutory status to the employee. The contract of service (sic) nonetheless remains a

contract for personal service. The result of granting of such a declaration in a case like this would be that the moment such a declaration is made

the servant has to be paid his salary. But his salary is governed by contract and not by the standing orders i.e. by the statute. Therefore, making

such a declaration would amount to enforcing the contract of personal service. For these reasons we are unable to follow the decision of the

Allahabad High Court in the abovementioned case. The last case cited before us by Counsel for the respondent is Bihar State Road Transport

Corporation Vs. State of Bihar and Others, . That case arose out of an ""award"" passed by a Labour Court on a reference u/s 10(1) of the

Industrial Dispute Act, 1947. In that case there was no question of violation of standing orders and it involved a question regarding non-

observance of principles of natural justice. That case, in our opinion, therefore, has no application in the present case. From what has been

discussed above it follows that the present case does not fall within any of the three well recognised exceptions where a court can grant a

declaration that an order of dismissal is invalid, inoperative and null and void. Neither does it fall within the fourth class of exceptions where a

statutory status has been conferred upon an employee or the dismissal complained of affects his status. In our opinion, therefore, the trial court

rightly dismissed the suit. We, accordingly, allow this appeal, set aside the judgment and decree under appeal and restore those of the trial court.

In the circumstances we make no order as to costs.

The operation of this order will remain stayed for a period of six weeks from this date.

S.K. Mukherjee, J.

I agree.