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March 11

RAJKUMAR NARSINGH PRATAP SINGH DEO

v.

STATE OF ORISSA AND ANR.

[P. B. GAJENDRAGADKAR, C.J., K. N. WANCHOO, J. C. SHAH, N. RAJAGOPALA AYYANGAR AND S. M. SIKRI, JJ.]

Khorposh Allowance—Sanad granted by Ruler of State—Discontinuance of cash allowance by Government of Orissa after merger—Validity—Sanad, if law or executive act—Constitution of India, Arts. 366(10), 372—*Order* 31 *of* 1948 *issued by Government of Orissa, cl.* 4(b).

The Ruler of Dhenkanal State granted a sanad by way of Khorposh allowance to his younger brother, the appellant giving certain lands and a maintenance allowance, under the customary law of the State. After the merger of that State to the Dominion of India which became effective on January 1, 1948, the Government of Orissa took over the administration of the State and discontinued the cash allowance. The appellant challenged the validity of the order of discontinuance by a suit in the Court of Subordinate Judge. The suit was dismissed. On appeal to this Court it was urged on behalf of the appellant that the sanad issued by an absolute monarch was law, and was continued by Arts. 366(10), 372(1) of the Constitution and cl. 4(b) of the Order 31 of 1948 issued by the Orissa Government in exercise of the power delegated to it by the Central Government under s. 3(2) of the Extra Foreign Jurisdiction Act, 1947.

Held: (i) It was not correct to say that in dealing with a grant made by an absolute monarch any enquiry as to whether the grant was the result of an executive or legislative act was altogether irrelevant. This Court did not lay down any inflexible rule that the well-recognised jurisprudential distinction between legislative and executive acts was wholly irrelevant or inapplicable to such a case.

Ameer-un Nissa Begum v. *Mahboob Begum*, A.I.R. 1955 S.C. 352, *Director of Endowments, Government of Hyderabad* v. *Akram Ali*, A.I.R. 1956 S.C. 60, *Madhaorao Phalke* v. *State of Madhya Bharat*, [1961] 1 S.C.R. 957, *Promode Chandra Deb* v. *State of Orissa*, [1962] Supp. 1 S.C.R. 405, *Tilkayat Shri Govindlalji Maharaj* v. *State of Rajasthan*, [1964] 1 S.C.R. 561, *Maharaja Shree Umaid Mills Ltd.* v. *Union of India*, A.I.R. 1963 S.C. 953 and *State of Gujarat* v. *Vora Fiddali Badruddin Nithibarwala*, [1964] 6 S.C.R. 461, considered.

In such an enquiry it was necessary to consider such relevant factors as the nature of the order, its scope and effect, general setting and context and the method adopted by the Ruler in promulgating it.

So judged, the Sanad in question had no legislative element in any of its provisions and was a gift pure and simple made in pursuance of the custom of the family and customary law of the State.

The gift therefore, was an executive act of the Ruler and did not amount to law although the Ruler was discharging by it his obligation under personal or customary law.

The gift being an executive act of the Ruler could be modified or cancelled by an executive act of the successor to the Ruler. The discontinuance of the cash allowance could not affect the continuance of the customary law under cl. 4(b) of the Order of 1948 and Art. 372 of the Constitution. Nor could the plea of payment of such allowance even after the merger invalidate the discontinuance.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 133/1963. Appeal from the judgment and decree dated November 17, 1960, of the Orissa High Court in First Appeal No. 45 of 1955.

M. C. Setalvad, R. K. Garg, M. K. Ramamurthi, D. P. Singh and *S. C. Agarwala*, for the appellant.

S. V. Gupte, Additional Solicitor-General of India, Ganapathy Iyer and *R. H. Dhebar*, for the respondents.

March 9, 1964. The judgment of the Court was delivered by

GAJENDRAGADKAR, C.J.—The principal point of law which arises in this appeal is whether the Sanad issued in favour of the appellant, Rajkumar Narsingh Pratap Singh Deo, by his elder brother, the Ruler of Dhenkanal State, on March 1, 1931, is existing law within the meaning of Art. 372 of the Constitution read with cl. 4(b) of Order No. 31 of 1948 issued by the respondent State of Orissa on January 1, 1948. This question arises in this way. The State of Dhenkanal which was an independent State prior to 1947 merged with the Province of Orissa in pursuance of a Merger Agreement entered into between the Ruler of Dhenkanal and the Dominion of India on December 15, 1947. This Agreement came into force as from January 1, 1948. In consequence of this Agreement the entire administration of the State of Dhenkanal was taken over by the State of Orissa pursuant to the authority conferred on it by the Central Government under s. 3(2) of the Extra Foreign Jurisdiction Act, 1947 (No. 47 of 1947). After the Sanad in question was issued in favour of the appellant, he was getting a monthly allowance of Rs. 500/- from the Dhenkanal District Treasury on the authority of a permanent Pay Order which had been issued in his favour by the Ruler of Dhenkanal on the basis of the said Sanad. This payment was discontinued by the respondent from 1st of May, 1949 and the several representations made by the appellant to the various authorities of the respondent to reconsider the matter failed. That is why he filed the present suit on September 26, 1951 in the Court of the subordinate Judge, Dhenkanal, alleging that the act of discontinuing the appellant's pension was illegal, and asking for appropriate reliefs in that behalf. It is from this suit that the present appeal arises.

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The appellant's case is that in the family of the appellant, it has been recognised as a customary right of the junior members of the family to receive adequate maintenance consistently with the status of the family. Indeed, the appellant's allegation is that this custom was recognised in Dhenkanal and enforced as customary law in the State. The grants made to the members of the Royal Family for their maintenance consisted of lands and cash allowances. These latter were described as Kharposh allowances and they were charged and paid out of the revenue of the former State of Dhenkanal. It was in accordance with this customary law that the Sanad in question was issued by the Ruler of Dhenkanal in favour of the appellant. By this Sanad, certain lands were granted to the appellant and a cash allowance of Rs. 500/- per month was directed to be paid to him for life. The appellant's grievance is that this grant of Rs. 500/- allowance has been discontinued by the respondent and that, according to the appellant, is an illegal and unconstitutional act. In support of his plea that the respondent was bound to continue the payment of the cash allowance, the appellant urged in his suit that the grant was a law within the meaning of Art. 372 and as such, it had to be continued. He also alleged that after the merger of Dhenkanal with Orissa, his right to receive the grant was recognised by the respondent and acted upon; and that is another reason why he claimed an appropriate relief in the form of an injunction against the respondent. Several other pleas were also taken by the appellant in support of his claim, but it is not necessary to refer to them for the purpose of the present appeal.

The respondent denied the appellant's claim and urged that having regard to the nature of the grant on which the appellant has rested his case, it was competent to the respondent to discontinue the grant. The grant in question is not law under Art. 372 and just as it could be made by the Ruler in 1931 by an executive act, it can be discontinued by the respondent by a similar executive act since the respondent is the successor of the Ruler. It was also urged by the respondent that the appellant's allegation that the respondent had recognised and agreed to act upon the grant of cash allowance, was not well-founded. Both the learned trial Judge who tried the appellant's case, and the High Court of Orissa before which the appellant took his case in appeal, have, in the main, rejected the appellant's contention, with the result that the appellant's suit has been dismissed. The appellant then applied for and obtained a certificate from the High Court and it is with the certificate thus granted to him that he has come to this Court in appeal.

The first and the main point which Mr. Setalvad for the appellant has urged before us is that the Sanad on which the appellant's claim is founded, is law. At the time when the

Sanad was granted, the Ruler of Dhenkanal was an absolute monarch and in him vested full sovereignty; as such absolute sovereign, he was endowed with legislative, judicial and executive powers and authority and whatever order he passed amounted to law. In the case of an absolute monarch whose word is literally law, it would be idle, says Mr. Setalvad, to distinguish between binding orders issued by him which are legislative from other binding orders which are executive or administrative. All binding orders issued by such a Ruler are, on the ultimate analysis, law, and the Sanad in question falls under the category of such law.

In support of this argument, Mr. Setalvad has referred us to the definition of the words "existing law" prescribed by Art. 366(10) of the Constitution. Art. 366(10) provides that "existing law" means any law, ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, ordinance, order, bye-law, rule or regulation. Basing himself on this definition, Mr. Setalvad also relies on the provisions of Art. 372(1) which provides for the continuance in force of existing laws; this continuance is, of course, subject to the other provisions of the Constitution and it applies to such laws as were in force in the territory of India immediately before the commencement of the Constitution, until they are altered, repealed or amended by a competent Legislature or other competent authority.

These provisions are invoked by Mr. Setalvad primarily by virtue of cl. 4(b) of Order 31 of 1948 issued by the respondent on the 1st of January, 1948. It is well-known that by s.3(1) of the Extra Foreign Jurisdiction Act, the Central Government was given very wide powers to exercise extra provincial jurisdiction in such manner as it thought fit. Section 3(2) provided that the Central Government may delegate any such jurisdiction as aforesaid to any officer or authority in such manner and to such extent as it thinks fit. The width of the powers conferred on the Central Government can be properly appreciated if the provisions of s. 4 are taken into account. Under s. 4(1), the Central Government was authorised by notification in the Official Gazette to make such orders as may seem to it expedient for the effective exercise of the extra-foreign jurisdiction of the Central Government. Section 4(2) indicates by cls. (a) to (d) the categories of orders which can be passed by the Central Government in exercise of its jurisdiction. The sweep of these powers is very wide and they had to be exercised in the interests of the proper governance of the areas to which the said Act applied. Under s. 3(2), the Central Government had delegated its powers to the Province of Orissa in respect of States which had merged with it, and it was in exercise of its powers as such delegated that Order 31 of 1948

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was issued by the Province of Orissa (now the respondent). Cl. 4 of the Order dealt with the question of the laws to be applied to the merging areas. Cl. 4(a) referred to the enactments specified in the first column of the Schedule annexed to the Order and made them applicable as indicated in it. Cl. 4(b) provided that as respects those matters which are not covered by the enactments applied to the Orissa States under sub-para (a), all laws in force in any of the Orissa States prior to the commencement of this Order, whether substantive or procedural and whether based on custom and usage, or statutes, shall, subject to the provisions of this Order, continue to remain in force until altered or amended by an Order under the Extra Provincial Jurisdiction Act, 1947. There is a proviso to this sub-clause to which it is unnecessary to refer. The argument is that by virtue of cl. 4(b) of this Order, the customary law prevailing in the State of Dhenkanal prior to its merger continued to operate as law in the territory of Dhenkanal and that is how it is operative even now, because it has not been repealed or amended. Since the Sanad issued in favour of the appellant is, according to the appellant's case, law, there would be no authority in the respondent to cancel the payment of cash allowance to the appellant merely by an executive order. If the respondent wants to terminate the payment of the cash allowance to the appellant, the only way which the respondent can legitimately adopt is to make a law in that behalf, or issue an order under cl. 4(b) of the Order. That, broadly stated, is the argument which has been pressed before us by Mr. Setalvad.

We do not think that the basic assumption made by Mr. Setalvad in presenting this argument is sound. It would be noticed that the basic assumption on which the argument is based is that in the case of an absolute monarch, there can be no distinction between executive and legislative orders. In other words, it is assumed that all orders which are passed by an absolute monarch, are binding, and it is idle to enquire whether they are executive or legislative in character, because no such distinction can be made in regard to orders issued by an absolute monarch. It is true that the legislative, executive and judicial powers are all vested in an absolute monarch; he is the source or fountain of all these powers and any order made by him would be binding within the territory under his rule without examining the question as to whether it is legislative, executive or judicial; but though all the three powers are vested in the same individual, that does not obliterate the difference in the character of those powers. The jurisprudential distinction between the legislative and the executive powers still remains, though for practical purposes, an examination about the character of these orders may serve no useful purpose. It is not as if where absolute monarchs have sway in

their kingdoms, the basic principles of jurisprudence which distinguish between the three categories of powers are inapplicable. A careful examination of the orders passed by an absolute monarch would disclose to a jurist whether the power exercised in a given case by issuing a given order is judicial, legislative, or executive, and the conclusion reached on jurisprudential grounds about the nature of the order and the source of power on which it is based would nevertheless be true and correct. That, indeed, is the approach which must be adopted in considering the question as to whether the grant in the present case is law within the meaning of Art. 372 as well as cl. 4(b) of Order 31 of 1948; and so, *prima facie*, it does not seem sound to suggest that in the case of an absolute monarch, that branch of jurisprudence which makes a distinction between three kinds of power is entirely inapplicable.

In dealing with this aspect of the matter, it is hardly necessary to examine and decide what distinguishes a law from an executive order. A theoretical or academic discussion of this problem would not be necessary for our present purpose, because all that we are considering at this stage is whether or not it would be possible to consider by reference to the character of the order, its provisions, its context and its general setting whether it is a legislative order or an executive order. Though theorists may not find it easy to define a law as distinguished from executive orders, the main features and characteristics of law are well recognised. Stated broadly, a law generally is a body of rules which have been laid down for determining legal rights and legal obligations which are recognised by courts. In that sense, a law can be distinguished from a grant, because in the case of a grant, the grantor and the grantee both agree about the making and the acceptance of the grant; not so in the case of law. Law in the case of an absolute monarch is his command which has to be obeyed by the citizens whether they agree with it or not. Therefore, we are inclined to hold that Mr. Setalvad is not right in making the unqualified contention that while we are dealing with a grant made by absolute monarch, it is irrelevant to enquire whether the grant is the result of an executive action, or a legislative action. On Mr. Setalvad's contention, every act of the absolute monarch and every order passed by him would become law though the act or order may have relation exclusively to his personal matters and may have no impact on the public at large. That is why it is unsound to suggest that the jurisprudential distinction between orders which are judicial, executive or legislative or in relation to purely individual and personal matters should be treated as irrelevant in dealing with Acts or orders passed even by an absolute monarch.

Realising the difficulty in his way, Mr. Setalvad has strongly relied on certain decisions of this Court which, according to him, support the broad point which he has raised before

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us. It is, therefore, necessary to examine these decisions. The first case on which Mr. Setalvad relies is that of *Ameer-un-Nissa Begum* v. *Mahboob Begum*(1). In that case, this Court was called upon to consider the validity of the Firman issued by the Nizam of Hyderabad on the 19th February, 1939, by which a Special Commission had been constituted to investigate and submit a report to him in the case of succession to a deceased Nawab which was transferred to the commission from the file of Darul Quaza Court. Dealing with the question as to whether the Firman in question was passed by the Nizam in exercise of his legislative power or judicial power, Mukherjea, C.J., speaking for the Court, observed that the Nizam was the supreme legislature, the supreme judiciary and the supreme head of the executive and there were no constitutional limitations upon his authority to act in any of these capacities. He also observed that the Firmans were expressions of the sovereign will of the Nizam and they were binding in the same way as any other law; therefore so long as a particular firman held the field, that alone would govern or regulate the rights of the parties concerned, though it could be annulled or modified by a later Firman at any time that the Nizam willed. It appears, however, that the learned counsel appearing in that case did not argue this point, and so, the question as to whether it would be possible or useful to draw a line of demarcation between a Firman which is legislative and that which is executive, was neither debated before the Court, nor has it been examined and decided as a general proposition of law.

In *The Director of Endowments, Government of Hyderabad* v. *Akram Ali*(2), similar observations were repeated by Bose, J., who spoke for the Court on that occasion. Dealing with the Firman issued by the Nizam on the 30th December, 1920, which directed the Department to supervise the Dargah until the rights of the parties were enquired into and decided by the Civil Court, it was observed that the Nizam was an absolute sovereign regarding all domestic matters at the time when the Firman was issued and his word was law. That is how the validity of the Firman was not questioned and it was held that its effect was to deprive the respondent before the Court and all other claimants of all rights to possession pending enquiry of the case. In this case again, as in the case of *Ameer-un-Nissa Begum*(1), the point does not appear to have been argued and the observations are, therefore, not intended to lay down a broad or general proposition as contended by Mr. Setalvad.

That takes us to the decision in the case of *Madhaorao Phalke* v. *The State of Madhya Bharat*(3). On this occasion, this Court was called upon to consider the question as to

(1) A.I.R. 1955 S.C. 352. (2) A.I.R. 1956 S.C. 60
(3) [1961] I S.C.R. 957.

whether the relevant Kalambandis issued by the Ruler of Gwalior constituted law, or amounted merely to executive orders. In the course of the judgment, the passages in the two cases to which we have just referred were, no doubt, quoted; but the ultimate decision was based not so much on any general ground as suggested by Mr. Setalvad, as on the examination of the character of the Kalambandis themselves and other relevant factors. If Mr. Setalvad's argument be well-founded and the Kalambandis had to be treated as law on the broad ground that they were orders issued by an absolute monarch, it would have been hardly necessary to consider the scope and effect of the Kalambandis, the manner in which they were passed, and the object and effect of their scheme. In fact, these matters were considered in the judgment and it was ultimately held that "having regard to the contents of the two orders and the character of the provisions made by them in such a detailed manner, it is difficult to distinguish them from statutes or laws; in any event, they must be treated as rules or regulations having the force of law". That was the finding made by the High Court and the said finding was affirmed by this Court. Therefore, though this judgment repeated the general observations made by this Court on two earlier occasions, it would be noticed that the decision was based not so much on the said observations, as on a careful examination of the provisions contained in the Kalambandis themselves.

In *Promod Chandra Deb* v. *The State of Orissa*(1), this Court has held that the grant with which the Court was concerned, read in the light of Order 31 of the Rules, Regulations and Privileges of Khanjadars and Khorposhdars, was law. In discussing the question, Sinha, C.J., has referred to Order 31 of the Rules and Regulations and has observed that like the Kalambandis in the case of *Phalke*(2), the said Rules has the force of law and would be existing law within the meaning of Art. 372 of the Constitution. This case does not carry the position any further except that the same general observations are reproduced.

In the case of *Tilkayat Shri Govindlalji Maharaj* v. *State of Rajasthan*(3), while dealing with the question as to whether the Firman issued by the Udaipur Darbar in 1934 was law or not, this Court examined the scheme of the said Firman, considered its provisions, their scope and effect and came to the conclusion that it was law. Having thus reached the conclusion that the Firman, considered as a whole, was law, the general observations on which Mr. Setalvad relies were reproduced. But as in the case of *Phalke*(2), so in this case, the decision does not appear to be based on any general or *a priori* consideration, but it is based more particularly on the examination of the scheme of the Firman and its provisions.

(1) [1962] Supp. I S.C.R. 405, 410. (2) [1961] 1 S.C.R. 957.
(3) [1964] 1 S.C.R. 561.

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In the case of *Maharaja Shree Umaid Mills Ltd.* v. *Union of India*(1), a similar question arose for the decision of this Court in regard to an agreement made on the 17th of April, 1941. The point urged before the Court was that the said agreement was law, and reliance was placed on the several general observations to which we have already referred. S. K. Das, J. who spoke for the Court examined the said observations and the context in which they were made and rejected the plea that the said observations were intended to lay down a general proposition that in the case of an absolute monarch, no distinction can be made between his legislative and his executive acts. In the result, the agreement in question was held to be no more than a contract which was an executive act and not a law within the meaning of Art. 372.

The same view has been recently expressed by Hidayatullah, Shah and Ayyangar, JJ. in the judgments respectively delivered by them in *The State of Gujarat* v. *Vora Fiddali Badruddin Mithibarwala*(2).

Therefore, a close examination of the decisions on which Mr. Setalvad relies does not support his argument that this Court has laid down a general proposition about the irrelevance or inapplicability of the well-recognised distinction between legislative and executive acts in regard to the orders issued by absolute monarchs like the Raja of Dhenkanal in the present case. The true legal position is that whenever a dispute arises as to whether an order passed by an absolute monarch represents a legislative act and continues to remain operative by virtue of cl. 4(b) of the Order, all relevant factors must be considered before the question is answered; the nature of the order, the scope and effect of its provisions, its general setting and context, the method adopted by the Ruler in promulgating legislative as distinguished from executive orders, these and other allied matters will have to be examined before the character of the order is judicially determined, and so, we are satisfied that Mr. Setalvad is not right in placing his argument as high as to say that the Sanad issued in favour of the appellant by the Raja of Dhenkanal must be held to be law without considering the nature of the grant contained in it and other relevant circumstances and facts. We must, therefore, proceed to examine these relevant facts.

Let us then examine the Sanad. It consists of three clauses. The first clause refers to the practice in the State of Dhenkanal under which the Rajas made grants in hereditary rights to their relatives, and it adds that there exists a patent necessity for making an adequate provision for the grantee.

(1) A.I.R. 1963 S.C. 953.

(2) [1964] 6 S.C.R. 461.

the appellant, to enable him to maintain his dignity as a Rajkumar of the State and to maintain himself, his family, his heirs and descendants in a manner befitting his and their position. That is why out of love and affection for him, the grantor made the khanja grant in the shape of a monthly cash allowance of Rs. 500/- for his life time and also an assignment of land measuring 6942-71-5 acres specified in the Schedule attached to the Sanad. The grant of the said land has been made heritable and the grantee has been authorised to enjoy it from generation to generation. The extent of the grant is also clarified by additional clauses which it is unnecessary to mention. Clause 2 of the Sanad imposes the condition of loyalty on the grantee and his heirs; and by cl. 3 the State undertook to bear all costs for reclaiming the land covered by the grant with a view to render it fit for cultivation.

Now, it is plain that there is no legislative element in any of the provisions of this grant. It does not contain any command which has to be obeyed by the citizens of the State; it is a gift pure and simple made by the Ruler in recognition of the fact that under the custom of the family and the customary law of the State, he was bound to maintain his junior brother. The grant, therefore, represents purely an executive act on the part of the Ruler intended to discharge his obligations to his junior brother under the personal law of the family and the customary law of the State. It would, we think be idle to suggest that such a grant amounts to law. It is true that partly it is based on the requirement of personal and customary law; but no action taken by the Ruler in discharging his obligations under such personal or customary law can be assimilated to an order issued by him in exercise of his legislative authority. Therefore, we have no difficulty in holding that the Sanad in question is a purely executive act and cannot be regarded as law as contended by Mr. Setalvad.

It was then faintly argued by Mr. Setalvad that the obligation undertaken by the Ruler was recognised by the respondent, and so, it could not be cancelled by the respondent merely by an executive act. In our opinion, there is no substance in this argument. If the act by which the grant was made was a purely executive act on the part of the then Ruler of the State of Dhenkanal, we do not see how it can be legitimately urged that the terms of the grant cannot either be modified, or the grant cannot be cancelled altogether by an executive act of the respondent which is the successor of the Ruler. As we have just indicated, the customary law which required the Ruler to provide maintenance for his junior brother, can be said to have been continued by cl. 4(b) of the Order of 1948 and Art. 372 of the Constitution; but to say that the customary law in that behalf is continued is very different from saying that the amount of maintenance fixed by the grant cannot be

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varied or altered. What the respondent has done is to stop the payment of cash allowance of Rs. 500/- per month and that does not mean alteration of the law. It is common ground that the grant of the land covered by the Sanad has not been disturbed, and so, all that the impugned action of the respondent amounts to is to reduce the total maintenance allowance granted to the appellant by the Ruler in 1931. It is plain that though the customary law requiring provision to be made for the maintenance of the appellant is in force, the respondent has the right to determine what would be adequate and appropriate maintenance, and this part of the right is purely executive in character. It would, we think, be unreasonable to suggest that though the Sanad is not law, the amount granted by the Sanad cannot be modified by an executive act of the respondent, and that the respondent must file a suit for that purpose. All that the customary law requires is the making of a suitable provision for the maintenance of the junior members of the family. But what is adequate provision in that behalf will always be a question of fact which has to be determined in the light of several relevant factors; the number of persons entitled to receive maintenance, the requirements of the status of the members of the family, the total income derived by the family, and other commitments, may all have to be weighed in deciding the quantum of maintenance which should be awarded to anyone of the junior members. In fact, both the Courts below have agreed in holding that having regard to the relevant facts, the grant of the land made by the Sanad would be adequate and appropriate for the maintenance of the appellant.

But apart from this aspect of the matter, we do not see how the appellant can seriously quarrel with the validity of the respondent's action in discontinuing the payment of cash allowance to him. The plea that payment was made for some time after the merger can hardly avail the appellant in contending that the discontinuance is invalid. In the very nature of things, the respondent could not have decided whether the cash allowance should be continued to the appellant or not without examining the merits of the case, and since a large number of such cases had to be examined after merger, if the payment continued to be made in the meantime, that cannot give any valid ground to the appellant to challenge the legality of the ultimate decision of the respondent to discontinue the payment of the said allowance.

The result is, we confirm the decision of the High Court, though on somewhat different grounds. The appeal accordingly fails and is dismissed. There would be no order as to costs.

Appeal dismissed