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was made. That is another reason why the present petition must fail.

We therefore dismiss the appeal and pass no order as to costs in respect thereof. We dismiss the writ petition with costs.

Appeal dismissed.
Writ petition dismissed.

M. RAMAPPA

v.

GOVERNMENT OF ANDHRA PRADESH AND ANOTHER

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January, 22.

(B. P. SINHA, C. J., P. B. GAJENDRAGADKAR, K. N. WANCHOO, M. HIDAYATULLAH and J. C. SHAH, JJ.)

State Service—Dismissal of employee—Appointment of Tribunal—Validity—Hyderabad Public Servants (Tribunal of Enquiry) Act, 1950 (Hyd. XXIII of 1950), ss. 3, 4—Andhra Civil Services (Disciplinary Tribunal) Rules, 1953—States Reorganisation Act, 1956 (XXXVII of 1956), ss. 115, 120, 121, 122, 127.

The appellant was a servant in the Hyderabad Revenue Service and was holding the post of Deputy Secretary to the Government in the Public Works Department. The Government of Andhra Pradesh ordered an enquiry by the Tribunal for Disciplinary proceedings. The Tribunal enquired into the charges and recommended the dismissal of the appellant from service and after due notice to the appellant the Government of Andhra Pradesh ordered his dismissal. The appellant thereupon moved a petition under Art. 226 of the Constitution for quashing the aforesaid order, which was dismissed by the High Court. In this Court it was urged by the appellant that the appointment of Mr. Sriramamurthy was incompetent as he was

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not qualified to act as the Tribunal of Enquiry under the Hyderabad Act.

Held, that by virtue of s. 127 thereof the States Reorganisation Act applied even if it was inconsistent with anything in the Hyderabad Public Servants Act, 1950. By reason of s. 127 and the power granted by s. 122 it was competent to the Government of Andhra Pradesh to name an authority under the Hyderabad Act even though that authority might not have been qualified under the latter Act. The concluding words of s. 122 shew that on the notification issuing under s. 122 the existing law itself was to have effect in a different manner. Section 122 thus made the Hyderabad Act speak in accordance with the notification issued under s. 122. That Act after the notification applied in accordance with the notification and was *pro tanto* adapted by the Notification. The adaptation of the Hyderabad Act under s. 120 was not a condition precedent to the issuance of the notification and Notification having issued the Hyderabad Act applied accordingly and the appointment of Mr. Sriramamurthy was therefore valid.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 356 of 1962.

Appeal by special leave from the judgment and order dated December 13, 1960, of the Andhra Pradesh High Court in Writ Petition No. 46 of 1960.

A. V. Viswanatha Sastri, B. Parthasarthi and *R. Vasudev Pillai*, for the appellant.

D. Narsaraju, Advocate-General for the State of Andhra Pradesh, K. R. Choudhri and *P. D. Menon*, for the respondents.

1963. January 22. The Judgment of the Court was delivered by

Hidayatullah, J.

HIDAYATULLAH, J.—This is an appeal by special leave against the judgment and order of the High Court of Andhra Pradesh dated December 13, 1960, dismissing Writ Petition No. 46 of 1960. The petitioner is the appellant before us. The respondents to this appeal are the Government of Andhra

Pradesh and the Chairman of the Tribunal for Disciplinary Proceedings, Andhra Pradesh. The appellant was a servant in the Hyderabad Revenue Service and in 1956 was holding the post of Deputy Secretary to the Government in the Public Works Department. On a report submitted by the C.I.D. the Government of Andhra Pradesh ordered an inquiry under s. 4 of the Hyderabad Public Servants (Tribunal of Enquiry) Act, 1950 (Hyderabad Act No. XXIII of 1950) by the Tribunal for Disciplinary Proceedings. The Tribunal enquired into 19 charges and submitted its report on July 11, 1959. The Tribunal found 4 charges proved and in view of the first charge which involved acceptance of a bribe and charge No. 14 which related to tampering with official records, the Tribunal recommended that the appellant be dismissed from service. After due notice to the appellant the Government of Andhra Pradesh ordered the dismissal of the appellant. The appellant thereupon moved a petition under Article 226 of the Constitution requesting that the order passed by Government be quashed. The appellant, *inter alia*, contended that under the Hyderabad Public Servants (Tribunal of Enquiry) Act, 1950, the Tribunal could only consist of persons who were judicial officers employed as Sessions Judges in the territory of India for a period of not less than 3 years. He contended that though the enquiry had properly commenced before Mr. R. Bhaskara Rao, who functioned as the Disciplinary Proceedings Tribunal up to April 19, 1959, he was succeeded by Mr. M. Sriramamurthy who was not qualified but who heard the arguments and submitted the report. He contended that Mr. Sriramamurthy had not held the office of a Sessions Judge for three years. The only question, which was considered by the Andhra Pradesh High Court, was whether in the circumstances Mr. Sriramamurthy was disqualified to act as the Tribunal. The High Court held that in view of the provisions of the States Reorganisation Act and

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the Notification issued by the Government of Andhra Pradesh on November 1, 1956, by which the Tribunal for Disciplinary Proceedings in Andhra Pradesh was named as the authority to function under the Hyderabad Public Servants (Tribunal of Enquiry) Act, 1950, Mr. Sriramamurthy was competent to exercise functions exercisable under the Hyderabad Act. The High Court accordingly dismissed the petition.

It is contended by Mr. Vishwanath Sastri that the appointment of Mr. Sriramamurthy was incompetent because he was not qualified to act as the Tribunal of Enquiry under the Hyderabad Act. We are concerned with the Hyderabad Act and the States Reorganisation Act, 1956 (Act No. XXXVII of 1956). The relevant provisions of the first Act are ss. 3 and 4 and they may now be seen. Section 3 of the Hyderabad Public Servants (Tribunal of Enquiry) Act 1950, in so far as it is material, read as follows :—

> "3. (1) A Tribunal consisting of one or more members shall be constituted for the purpose of this Act.
>
> (2) Every member of the Tribunal shall be a judicial officer who has been employed as a Sessions Judge in the territory of India for a period of not less than three years ....."

Section 4 read as follows :—

> "4. Government may, and in such cases, if any as may be prescribed, shall refer to the Tribunal for enquiry and report any case involving an allegation of misconduct or inefficiency or disloyalty on the part of a public servant."

The corresponding provisions in the State of Andhra before the formation of the State of Andhra Pradesh were the Andhra Civil Services (Disciplinary Tribunal) Rules, 1953, which were made under the proviso to Art. 309 of the Constitution. Under those Rules which came into force on October 1, 1953, it was provided :—

> "3. (a) The Tribunal shall consist of one Judicial officer of the status of District and Sessions Judge."
>
> (Proviso omitted)

It is admitted that Mr. M. Sriramamurthi held the qualification under this Rule.

On November 1, 1956, the State of Andhra Pradesh was formed by the amalgamation, among others, of portions of Hyderabad State with the State of Andhra. The States Reorganisation Act contemplating the existence of diverse laws on the same subject in the integrated units provided for the conflict of laws. Under s. 115 which related to services it was provided that every person who immediately before the appointed day was serving in connection with the affairs of an existing State, parts of whose territories were transferred to another State, would from that date provisionally continue to serve in connection with the affairs of the successor State to that existing State unless he was required to serve provisionally in connection with the affairs of any other successor State. Under this section the appellant automatically began to serve the successor State, namely, the State of Andhra Pradesh. Section 120 gave the power to the State Government to adapt laws. It provided that the Government of the succeeding State could make adaptations and modifications of the law of an existing State whether by way of repeal or amendment, as may be necessary or expedient, and after

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such adaptations, every such law was to have effect until altered, repealed or amended by a competent Legislature or other competent authority. Section 121 gave a special power to Courts, Tribunals and authorities to construe the laws where no provision or insufficient provision has been made for the adaptation of a law to facilitate the application of the law in relation to any State newly formed though without affecting the substance of the matter. Section 122 then provided as follows : –

> "122. The Central Government, as respects any Part C State, and the State Government as respects any new State or any transferred territory, may by notification in the Official Gazette specify the authority, officer or person who, as from the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly."

Finally, section 127 read as follows : –

> "127. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law."

It will, therefore, be seen that the States Reorganisation Act applies even if it is inconsistent with anything in the Hyderabad Public Servants (Tribunal of Enquiry) Act, 1950. By reason of s. 127 and the power granted by s. 122 it was competent to the Government of Andhra Pradesh to name an authority under the Hyderabad Act even though that authority might not have been qualified under the latter Act. The concluding words of s. 122 "shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law

shall have effect accordingly" show that on the notification issuing under s. 122 the existing law itself is to have effect in a different manner.

The argument of Mr. Vishwanath Sastri that before the Hyderabad Act could be departed from, it had to be adapted under s. 120 by substituting an authority different from that named in s. 3 therefore might have been effective if s. 122 had not concluded in the manner indicated above. Section 122 by its very terms makes the Hyderabad Act speak in accordance with a notification issued under s. 122. That Act after the notification applies in accordance with the notification and *pro tanto* is adapted by the Notification. In our opinion adaptation of the Hyderabad Act under s. 120 was not a condition precedent to the issuance of the Notification and the Notification having issued the Hyderabad Act applied accordingly and the appointment of Mr. Sriramamurthy was therefore valid. We agree with the High Court in its conclusion. The appeal fails and is dismissed with costs.

Appeal dismissed.