Supreme Court of India
Dr. Bool Chand vs The Chancellor, Kurukshetra ... on 4 September, 1967
Equivalent citations: 1968 AIR 292, 1968 SCR (1) 434
Author: S C.
Bench: Shah, J.C.

PETITIONER:
DR. BOOL CHAND

Vs.

RESPONDENT:
THE CHANCELLOR, KURUKSHETRA UNIVERSITY

DATE OF JUDGMENT:
04/09/1967

BENCH:
SHAH, J.C.
BENCH:
SHAH, J.C.
SIKRI, S.M.
SHELAT, J.M.

CITATION:
1968 AIR 292 1968 SCR (1) 434
CITATOR INFO :
RF 1971 SC1828 (5)
RF 1971 SC2242 (21)
D 1992 SC1872 (15,16)

ACT:
Kurukshetra University Act, 1956, Sch. I CC.4(vi) & (vii)--Punjab General Clauses Act, 1898--s. 14. Chancellor given power to appoint Vice-Chancellor but not to determine employment--whether such power implied in power to appoint--Nature of Vice-Chancellor's employment--whether contractual--whether rules of natural justice required to be followed when determining his employment.

HEADNOTE:
The appellant was a member of the Indian Administrative Service in the Madhya Pradesh Cadre and was compulsorily retired from the Service for misconduct by an order of the President in February, 1963. In June, 1965 he was appointed Vice-Chancellor of the Kurukshetra University, by the then Chancellor of the University. On March 31, 1966 the new Chancellor who Was in office at the time, ordered the suspension of the appellant from the office of Vice-Chancellor and also issued to him a notice to show cause why his

services I should not be terminated. The appellant filed a petition in the High Court seeking a writ in the nature of mandamus to quash the Chancellor's order of suspension. In the meantime the Chancellor passed an order on May 8, 1966, in exercise of the power under Clause 4(vi). of Schedule I to the Kurukshetra University Act, 1956, read with s.14 of the Punjab General Clauses Act, 1898, terminating the services of the appellant with immediate effect. The appellant then amended his petition and sought a writ of certiorari to quash the order of May 8, 1966. The High Court rejected the petition.

In appeal to this Court, it was contended on behalf of the appellant, inter alia, (i) that the Chancellor had no power under the Act or the Statutes to terminate the tenure of office of a Vice Chancellor; and (ii) that the Chancellor was bound to hold an enquiry in accordance with the rules of natural justice before determining the appellant's tenure, but the appellant had not been given a proper opportunity to explain why his services should not be terminated and, furthermore, the Chancellor had taken into consideration evidence which was not disclosed to the appellant.

On the other hand, it was contended for the respondent that since the claim for relief by the respondent was founded on an alleged breach of contract, the remedy of the appellant, if any, lay in an action for damages and not in a petition for a high prerogative writ.

HELD, dismissing the appeal:

(i)The absence of a provision setting up the procedure for determining the employment of the Vice-Chancellor in the Act or the Statutes or Ordinances does not lead to the inference that the tenure of office of Vice-Chancellor is not liable to be determined. [439H]

A power to appoint ordinarily implies a power to determine employment and this rule is incorporated in s.14 of the Punjab General Clauses Act I of 1898. [437H-438A]

S.R. Tiwari v. District Board, Agra, [1964] 3 S.C.R. 55 and Lekhraj Sathramdas Lalvani v. N. M. Shah, Deputy Custodian-cum-Managing Officer, Bombay, [1966] 1 S.C.R. 120; referred to.

435

An intention contrary to the rule was not evidenced either by the fact that under Clause 4(vii) of the Statutes the appointment of a Vice-Chancellor is for three years or because there was no express provision covering the determination of service of a Vice-Chancellor for misconduct as there was in the case of teachers. Clause 4(vii) of the Statutes does not purport to confer upon a person appointed Vice-Chancellor an indefeasible right to continue in office for three years; the clause merely places a restriction upon the power of the Chancellor, when fixing the tenure of the office of Vice-Chancellor. It could not be held that a person appointed a Vice-Chancellor is entitled to continue in office for the full period of his appointment even if it

turns out that he is physically decrepit, mentally infirm, or grossly immoral. [438E-F; 439G-H]
S.14 of the General Clauses Act is a general provision: it does not merely deal with the appointment of public servants. It deals with all appointments, and there is no reason to hold, having regard to the context in which the expression occurs, that the authority invested with the power of appointment has the power to determine employment as a penalty, but not otherwise. [438G-H]
(ii)The new Chancellor did issue a notice upon the appellant requiring him to show cause why the tenure of his service should not be terminated and the appellant made a representation which was considered; the appellant was informed of the grounds of the proposed termination of the tenure of his service and an order giving detailed reasons was passed by 'the Chancellor. The High Court had rightly held on the facts that the appellant had the fullest opportunity of making his representation and that the inquiry held by the Chancellor was not vitiated because of any violations of the rules of natural justice. [443D; 446C]
(iii) The power to appoint a Vice-Chancellor has its source in the University Act: investment of that power carries with it the power to determine the employment but that power may not be exercised arbitrarily; it can be only exercised for good cause, i.e. in the interests of the University and only when it is found after due enquiry held in a manner consistent with the rules of natural justice, that the holder of the office is unfit to continue as Vice-Chancellor. [441G]
A.Francis v. Municipal Councillors of Kuala Lumpur, [1962] 3 All E.R. 633; Barber v. Manchester Regional Hospital Board and Anr., [1958] All E.R. 322; Vidyodaya University of Ceylon and Ors. v. Silva. [1964] 3 All E.R. 865; State of Orissa v. Dr. (Miss) Binapani, [1967] 2 S.C.R. 625; Ridge v. Baldwin and Ors. [1964] A.C. 41; referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 246 of 1967. Appeal from the judgment and order dated October 19, 1966 of the Punjab High Court in Civil Writ No. 739 of of 1966. N. C. Chatterjee, S. C. Agarwala, R. K. Garg, K.M.K. Nairand L. M. Singhvi, for the appellant.

Niren De, Additional Solicitor-General, Chetan Das Dewan, Deputy Advocate-General for the State of Haryana and N. H. Hingorani, for the respondent.

The Judgment of the Court was delivered by Shah, J. The State of Madhya Pradesh held an enquiry against the appellant Dr.' Bool Chand--a member of the Indian Administrative Service-on charges of- "gross misconduct and indiscipline" in respect of the conduct of the appellant when he was Collector District Rajgarh. The Enquiry Officer held that in recording certain remarks "regarding

association of tile Commissioner of Bhopal with one B.L. Gupta a pleader of Zirapur", the appellant was "actuated by malice" and his conduct "offended against official propriety, decorum and discipline", and that the appellant had without permission removed a safe from the Rajgarh Treasury. The President of India served notice upon the ap- pellant requiring him to show cause against the order of compulsory retirement proposed to be passed in regard to him. The President also consulted the Union Public Service Commission. The Union Put",- Service Commission was of the view that "in the light of the findings and conclusions stated by them and having regard to all the circumstances relevant to the case. the penalty of compulsory retirement on proportionate pension should be imposed upon" the appellant. and they advised the President accordingly. By order dated February 28, 1963. the President directed that the, appellant be compulsorily retired from the Indian Administrative Service with immediate effect. In March 1965 the appellant was appointed Professor and Head of the Department of Political Science in the Punjab Univer- sity. On June 18, 1965, the appellant was appointed Vice- Chancellor of the Kurukshetra University by order of Mr. Hafiz Mohd Ibrahim-who was the Chancellor of the University. After Mr.Hafiz Mohd. Ibrahim vacated the office of Chancellor of the University, Sardar Ujjal Singh, Governor of Punjab. held the office of Chancellor. On March 31, 1966, the Chancellor Sardar Ujjal Singh ordered that the appellant be Suspended from the office of Vice-Chancellor, and by another order the Chancellor issued a notice requiring the appellant to show Cause why his services as Vice-Chancellor of the Kurukshetra University be not terminated. The appellant submitted his representation, and shortly thereafter filed a petition in the High Court of Punjab for a writ in the nature of mandamus quashing the order and the notice dated March, 31, 1966. On May. 8, 1966 the Chancellor passed an order in exercise of the power under sub-cl. (vi) of cl. 4 of Sch. 1 to the Kurukshetra University Act, 1956, read with s. 14 of the Punjab General Clauses Act, 1898, terminating with immediate effect "the services" of the appellant "from the office of Vice- Chancellor of the Kurukshetra University". The petition was then amended by the appellant. and a writ of certiorari or appropriate writ calling for the record and quashing the order dated May 8. 1966, terminating the services of the appellant was also claimed. The High Court rejected the petition filed by the appellant. Against that order, with certificate granted by the High Court, this appeal has been preferred.

The first argument raised on behalf of the appellant is that the Chancellor had no power to terminate the tenure of office of a Vice-Chancellor. It is necessary, in considering the validity of that argument, to read certain provisions of the Kurukshetra University Act 12 of 1956. By s. 4 the University is invested with the power, inter alia, to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the University. By s. 7. amongst others, the Chancellor, the Vice-Chancellor and the Registrar are declared to be officers of the University. By s. 8 the powers, duties of officers, terms of office and filling of casual vacancies are to be prescribed by the statutes. Section 14(1) provides that the statutes in Sch. I shall be the statutes of the University and that the "Court of the University shall have the power to make new or additional statutes and to amend or repeal the statutes. By s. 21 it is provided that every salaried officer and teacher of the University shall be appointed under a written contract, which shall be lodged with the University. By cl. 4 of Sch. I the Vice- Chancellor is declared the principal executive and academic officer of the University, and also the ex-officio Chairman of the Executive Council, the Academic Council, and the Finance Committee, and is invested with authority to see that the Act. the Statutes, the Ordinances and the Regulations are faithfully observed, and to take such action as he deems

necessary in that behalf. The Vice-Chancellor is also authorised to exercise general control over the affairs of the University and to give effect to the decisions of the authorities of the University. Sub-clauses

(vi) & (vii) of cl. 4 provide:

> "(vi) The 'Upa-Kulapati' (Vice-Chancellor) shall be appointed by the 'Kulapati' (Chancellor) on terms and conditions to be laid by the 'Kulapati' (Chancellor).
>
> (vii) The 'Upa-Kulapati' (Vice-Chancellor) shall hold office ordinarily for a period of three years which term may be renewed.'.'.

From -a review of these provisions it is clear that the Vice-Chancellor is an officer of the University invested with executive powers set out in the Statutes and his appointment is to be made ordinarily for a period of three years and on terms and conditions laid down by the Chancellor.

There is no express provision in the Kurukshetra University Act or the Statutes thereunder which deals with the termination of the tenure of office of Vice-Chancellor. But on that account we are unable to accept the plea of the appellant that the tenure of office of a Vice-Chancellor under the Act cannot be determined before the expiry of the period for which he is appointed. A -power to appoint ordinarily implies a power to determine the employment. In S. R. Tiwari v. District Boarel, Agra,(1) it was observed by this Court at p. 67:

> "Power to appoint ordinarily carries with it the power to, determine appointment, and a power to terminate may in -the absence of restrictions express or implied be exercised, subject to the conditions prescribed in that behalf, by the authority competent to appoint."

A similar view was also expressed in Lekhraj Sathramdas Lalvani v. N. M. Shah, Deputy Custodian-cum-Managing Officer, Bombay (2) . That rule is incorporated in s. 14 of the Punjab General Clauses Act I of 1898. That section provides:

> "Where, by any Punjab Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall 'also have power to suspend or dismiss any person appointed whether by itself or any other authority by it in exercise of that power."

Counsel for the appellant urged that since the general rule is given a statutory form, the validity of the exercise of the power to determine the tenure of the office of the appellant must be found in s. 14 of the, Punjab General Clauses Act. Counsel says that s. 14 has no application to the interpretation of the Kurukshetra University Act, because cl. 4(vii) of the Statutes which prescribes that the appointment of a Vice-Chancellor shall ordinarily be for a period of three years discloses a different intention. But cl. 4(vii) of the Statutes does not purport to confer upon a person appointed Vice-Chancellor an indefeasible right to continue in office for three years: the clause merely places a

restriction upon the power of the Chancellor, when fixing the tenure of the office of Vice-Chancellor. Counsel also urged that under s. 14 of the Act power to ap- point includes power to dismiss, but not to determine employment. In support of that contention he urged that in relation to the tenure of service of a public servant, the expression "to dismiss" has come to mean to determine employment as a measure of punishment. But s. 14 of the General Clauses Act is a general provision: it does not merely deal with the appointment of public servants. It deals with all appointments, and there is no reason to hold, having regard to the context in which the expression occurs, that the authority invested with the power of appointment has the power to determine employment as a penalty, but not otherwise. The expression "dismiss" does not in its etymological sense necessarily involve any such meaning as is urged by counsel (1) [1964] 3 S.C.R. 55.

(2) [1966] 1 S.C.R. 120.

for the appellant. The implication that dismissal of a servant involves determination of employment as a penalty has been a matter of recent development since the Government of India Act, 1935, was enacted. By that Act certain restrictions were imposed upon the power of the authorities to dismiss or remove members of the civil services, from employment. There is no warrant however for assuming that in the General Clauses Act, 1898, the expression "dismiss" which was generally used in connection with the termination of appointments was intended to be used only in the sense of determination of employment as a measure of punishment. The expression "Punjab Act" is defined in s. 2(46) of the Punjab General Clauses Act as meaning an Act made by the Lieutenant Governor of the Punjab in Council under the Indian Councils Acts, 1861 to 1909, or any of those Acts, or the Government of India Act, 1915, or by the Local Legislature or the Governor of the Punjab under the Government of India Act, or by the Provincial Legislature or the Governor of the Punjab, or by the Provincial Legislature or the Governor. of East Punjab under the Government of India Act, 1935, or by the Legislature of Punjab Linder the Constitution. By s. 14(1) of the Kurukshetra University Act 12 of 1956, it was declared that on the commencement of the Act, the Statutes of the University shall be those as set out in the Schedule 1. The Statutes incorporated in the First Schedule were made by the Legislature and must for the purpose of s. 14 of the Punjab General Clauses Act be regarded as "Punjab Act". They do not cease to be "Punjab Act" merely because they are liable to be altered by the University Court in exercise of the power conferred by s. 14(2) of the University Act.

It was also urged that whereas provision was made by cl. 6 of the Annexure to Ordinance XI that the services of the tea-hers may be summarily determined on the ground of misconduct, .here was no such provision for determination of the employment of the Vice-Chancellor and that also indicated an intention to the contrary within the meaning of s. 14 of the Punjab General Clauses Act. We are unable to agree with that contention. It is true,. the office of the Vice-Chancellor of a University is one of great Responsibility and carries with it considerable prestige and authority. But we are unable to hold that a person appointed a Vice-Chancellor is entitled to continue in office for the full period of' his appointment even if it turns out that he is physically decrepit, mentally infirm, or grossly immoral. Absence of a provision setting up procedure for determining the employment of the Vice-Chancellor in the Act or the Statutes or Ordinances does not, in our judgment, lead to the inference that the tenure of office of Vice-Chancellor is not liable to be determined. The first contention raised by counsel for the appellant must therefore fail.

It was then urged by counsel for the appellant that the Chancellor was bound to hold an enquiry against the appellant before determining his tenure, and the enquiry must be held in consonance with the rules of natural justice. The Additional Solicitor-General submitted that since the claim for relief by the appellant was founded on an alleged breach of contract, the remedy of the appellant, if any, lay in an action for damages, and not in a petition for a high prerogative writ. The Additional Solicitor-General invited our attention to the averments made in the petition filed by the appellant that the Chancellor "was bound by the letter of appointment which created a tenure of office for three years" and which the Chancellor could not unilaterally determine in the purported exercise of an assumed power, and that in any event no such circumstances had been disclosed which would entitle the Chancellor to avoid the contract of service which was binding on the University, and submitted that since it was the appellant's case that his appointment as Vice-Chancellor was purely contractual, and the Chancellor had no power unilaterally to determine the contract, no relief of declaration about the invalidity of the order of the Chancellor may be granted in exercise of the jurisdiction of the High Court to issue high prerogative writs, and the only remedy which the appellant is entitled to claim is compensation for breach of contract, in action in a Civil Court.

It is true, as pointed out by the Judicial Committee of the Privy Council in A. Francis v. Municipal Councillors of Kuala Lumpur(1), that when there has been purported termination of a contract of service, a declaration that the contract of service still subsisted would rarely be made and would not be made in the absence of special circumstances, because of the principle that the Courts do not grant specific performance of contracts of service. The same view was expressed in Barber v. Manchester Regional Hospital Board and Anr(2) and in Vidyodaya University of Ceylon and Ors. v. Silva(3). In these cases the authority appointing a servant was acting in exercise of statutory authority but the relation between the person appointed and the employer was contractual, and it was held that the relation between the employer and the person appointed being that of master and servant, termination of relationship will not entitle the servant to a declaration that- his employment bad not been validly determined.

If the appointment of the Vice-Chancellor gave rise to the relation of master and servant governed by the terms of appointment, in the absence of special circumstances, the High Court would relegate a party complaining of wrongful termination Of the contract to a suit for compensation, and would not exercise its jurisdiction to issue a high prerogative writ compelling the University to retain the services of the Vice-Chancellor whom the University does not wish to retain in service. But the office of a (1) [1962] 3 All E.R. 633.

(2) [1958] 1 All E.R. 322 (3) [1964] 3 All E.R. 865.

Vice-Chancellor is created by the University Act: and by his appointment the Vice-Chancellor is invested with statutory powers and authority under the Act. The petition filed by he appellant in the High Court is a confused document. Thereby the appellant did plead that the relation between him and the University was contractual, but that was not the whole pleading. The appellant also pleaded, with some circumlocution that since he was appointed to the office, of Vice-Chancellor which is created by the Statute, the tenure of his appointment could not be determined without giving him an opportunity to explain why his appointment should not be terminated. The University Act, the

Statutes and the Ordinances do not lay down the conditions in which the appointment of the Vice-Chancellor may be determined, nor does the Act prescribe any limitations upon the exercise of the power of the Chancellor to determine the employment. But once the appointment is made in pursuance of a Statute, though the appointing authority is not precluded from determining the employment, the decision of the appointing authority to terminate the appointment may be based only upon the result of an enquiry held in a manner consistent with the basic concept of justice and fairplay. This Court observed in State of Orissa v. Dr. (Miss) Binapani(1) -it p. 1271:

> "It is one of the fundamental rules of our constitutional set-up that every citizen is protected against exercise of arbitrary authority by the State or its officers. Duty to act judicially would, therefore, arise from the every nature of the function intended to be performed, it need not be shown to be super-added. If there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power. If the essentials of justice be ignored and an order to the prejudice of a person is made, the order is a nullity. That is a basic concept of the rule of law and importance thereof transcends the significance of a decision in any particular case."

The power to appoint a Vice-Chancellor has its source in the University Act: investment of that power carries with it the power to determine the employment; but the power is coupled with duty. The power may not be exercised arbitrarily, it can be only exercised, for good cause, i.e. in the interests of the University and only when it is found after due enquiry held in manner consistent with the rules of natural justice, that the bolder of the office is unfit to continue as Vice-Chancellor.

In Ridge v. Baldwin and Others(1) a chief constable who was subject to the Police Acts and Regulations was, during the pendency of certain criminal proceedings in which he was arrested (1) [1967] 2 S.C.R. 625.

(2) [1964] A.C. 41.

and charged together with other persons, with conspiracy to obstruct the course of justice, was suspended from duty by the borough watch committee. The chief constable was acquitted by the jury on the criminal charges against him and he applied to be reinstated. The watch committee at a meeting decided that the chief constable had been negligent in the discharge of his duties and in purported exercise of the powers conferred on them by S. 191(4) of the Act of 1882 dismissed him from office. No specific charge was formulated against him, but the watch committee in arriving at their decision, considered his own statements in evidence and the observations made by the Judge who acquitted him. in support of the order of dismissal. The chief constable appealed to the Home Secretary who held that there was sufficient material on which the watch committee could properly exercise their power of dismissal under s. 191(4). The decision of the Home Secretary was made final and binding on the parties by s. 2(3) of the, Police Appeals Act, 1927. The chief constable then commenced' an action for a declaration that the purported termination of his appointment as chief constable was illegal, ultra vires and void,, and for payment of salary. The action was taken in appeal to the House of Lords. The House of Lords (Lord Evershed dissenting) held that the decision of the watch committee to dismiss the chief constable was null and void, and that accordingly

notwithstanding that the decision of the Home Secretary was made final and binding on the parties, that decision could not give validity to the decision of the watch committee. Lord Reid observed at p. 65:

> "So I shall deal first with cases of dismissal. These appear to fall into three classes: dismissal of a servant by his master, dismissal from office held during pleasure, and dismissal from an office where there must be something against a man to warrant his dismissal.
>
> The law regarding master and servant is not in doubt. There cannot be specific performance of contract of service, and the master can terminate the contract with his servant at any time and for any reason or for none. But if he does so in a manner not warranted by the contract he must pay damages for breach of contract. So the question in a pure case of master and servant does not at all depend on whether the master has beard the servant in his own defence: it depends on whether the facts emerging at the trial prove breach of contract.

Then there are many cases where a man holds an office at pleasure. Apart from judges and others whose tenure of office is governed by statute, all servants and officers of the Crown hold office at pleasure, and this has been held even to apply to a colonial judge (Terrell v. Secretary of State for the Colonies (1952) 2 Q.B. 482). It has always been held, I think rightly, and the reason is clear. As the person having the power of dismissal need .lm15 not have anything against the officer, he need not give any reasons.

So I come to the third class, which includes the present case. There I find an unbroken line of authority to the effect that an officer cannot lawfully be dismissed without first telling him what is alleged against him and hearing his defence or explanation."

The case of the appellant falls within the third class mentioned by Lord Reid, and the tenure of his office could not be interrupted without first informing him of what was alleged against him and without giving him an opportunity to make his defence or explanation.

The Chancellor Sardar Ujjal Singh did issue a notice upon the appellant requiring him to show cause why the tenure of his service should not be terminated. The appellant made a representation which was considered, and his tenure was determined because in the view of the Chancellor it was not in the public interest to retain the appellant as Vice- Chancellor. The appellant was informed of the grounds of the proposed termination of the tenure of his office and an order giving detailed reasons was passed by the Chancellor. But the appellant contended that in arriving at his decision. the Chancellor misread the order of the President and took into consideration evidence which was not disclosed to the appellant, and failed to consider evidence in his favour which was on the, record. It is true that the order of the President only recites that the appellant was compulsorily retired as an officer of the Madhya Pradesh Cadre of the Indian Administrative Service: it does not expressly state that the order of compulsory retirement was imposed as a penalty. But a review of the disciplinary proceedings against the appellant which culminated in the order of the President leaves no room for

doubt. The order of compulsory retirement was passed against the appellant as a penal order.

There is no substance in the plea that the order of the Chancellor was vitiated, since the Chancellor in ascertaining the true. effect of the order of the President took into consideration a letter from the Secretary (Services), Government of India, Ministry of' Home Affairs, dated May 6, 1966. The letter which has been set out in the order of the Chancellor merely catalogues the various, steps taken by the different authorities which considered the case of the appellant before the order of compulsory retirement of the appellant from the Indian Administrative Service was passed by the President. That letter contains no new material.

The plea that the -Chancellor was influenced by evidence which was not disclosed to the appellant is also without substance.

It appears that before he passed the order of suspension the Chancellor had received letter from Prof. D.C. Sharma and Dr. A. C. Joshi in answer to enquiries made by him relating to the circumstances in which the appellant was appointed to the post of Professor of Political Science in the University of Punjab, and these letters were not disclosed to the appellant. Counsel for the appellant says that these letters indicate that the University authorities fully knowing that the appellant was compulsorily retired from the Indian Administrative Service, appointed him as Vice-Chan- cellor. But the appellant did not specifically plead or make out the case that the Chancellor Mr. Hafiz Mohd. Ibrahim was made aware of the order of compulsory retirement. The Chancellor Sardar Ujjal Singh in passing the impugned order considered the grounds set up in the representation and then posed the question whether his predecessor in office, when he made the appointment -of the appellant was aware of the fact that the appellant had been compulsorily retired as a measure of punishment from the Indian Administrative Service, and came to the conclusion that there was nothing to show that he--Mr. Hafiz Mohd. Ibrahim-was aware of the order of compulsory retirement. In paragraph .13 of his -order, the Chancellor Sardar Ujjal Singh observed:

> "At the time of his appointment as Vice- Chancellor, the fact of his compulsory retirement was not known to the Chief Minister or the then Chancellor. The alleged knowledge of the fact of compulsory retirement on the part of the Chief Minister, Cabinet or the previous Chancellor is, therefore, without any basis."

Unless he was moved in that behalf by the appellant it was not the duty of the Chancellor Sardar Ujjal Singh, before he passed the order against the appellant determining the tenure of his appointment, to enquire of Mr. Hafiz Mohd. Ibrahim who passed -the order of appointment and of the Chief Minister, Punjab, whether they had come to know of the order of the President. In the petition filed before the High Court the petitioner merely averred in ground (iv) (d) that "the order of the Chancellor was vitiated, inter alia, because the Chancellor had without any material come to a conclusion that there was no basis to allege knowledge of the fact of compulsory retirement on the part of the Chief Minister or the Cabinet or the previous Chancellor": he did not set up the case that the Chancellor had information about the order of the President. His principal plea was that he was under no obligation to disclose that he was compulsorily retired from the Indian Administrative Service. In the affidavit filed by Sardar Ujjal Singh, the assertion made in ground (iv) (d) is denied.

Affidavits of Mr. Hafiz Mohd. Ibrahim and Mr. Ram Kishan. Chief Minister. Punjab, were also filed before the High Court. and it was averred that neither of them knew at the time when the appointment was made that the appellant bad been compulsorily retired by the President from the Indian Administrative Service.

Mr. Hafiz Mohd. Ibrahim further averred that "this information did not also come to his notice so long he remained Chancellor of the Kurukshetra University", and that if the fact of compulsory retirement of the appellant as a penalty had been within his know-. ledge, he would not have appointed the appellant as Vice-Chancellor. Even after the affidavits by Mr. Hafiz Mohd. Ibrahim and Mr. Ram Kishan were filed, the appellant by his supplementary affidavit which was filed on July 27, 1966, did not contend that, Mr. Hafiz Mohd. Ibrahim or the Chief Minister had information about the determination of his employment in the Indian Administrative Service. His plea was that the members of the syndicate. the members of the senate and the Vice- Chancellor of the Punjab University had knowledge about determination of his employment. when lie was appointed Professor of Political Science; and that plea. we agree with the High Court, was wholly irrelevant.

It is true that the Chancellor in his order recorded that Mr. Hafiz Mohd. Ibrahim did not know at the time of making the appointment of the appellant to the office of Vice- Chancellor that he was compulsorily retired from the Indian Administrative Service. But no inference arises therefrom that Sardar Ujjal Singh before he passed the orders made any enquiries or had access to evidence which was not disclosed to the appellant. We are unable to agree with counsel for the appellant that before a conclusion could be recorded, it was the duty of Sardar Ujjal Singh to ascertain from Mr. Hafiz Mohd. Ibrahim and Mr. Ram Kishan whether they were aware before the appellant was appointed Vice-Chancellor of the order passed by the President. The Chancellor, Sardara Ujjal Singh. was, in Our judgment, under no obligation. unless moved by the appellant, to hold such enquiry. It was for the appellant to take up the defence that Mr. Hafiz Mohd. Ibrahim was informed of the order of the President and to take steps to prove that fact. He did not take up that defence, and he cannot no,,\ seek to make out the case that the order was vitiated because the Chancellor Sardar Ujjal Singh did not make an enquiry which the Chancellor was never asked to make. The reference to the letter of Prof. D. C. Sharma in the order of the Chancellor has no bearing either on the true effect of the order of the President or on the question whether the Chancellor was cognizant of the order passed by the President.

The argument that when considering the letter of Prof. D.C. Sharma, the Chancellor should have also considered the letter of Dr. A.C. Joshi requires no serious consideration. The letters of Prof. D. C. Sharma and Dr. A. C. Joshi are. in our judgment. irrelevant in considering whether the Chancellor Mr. Hafiz Mohd. Ibrahim was aware of the order passed by the President. It is impossible to raise an inference that because the order of the President was gazetted and certain members of the syndicate and senate were aware of tile order of the President, knowledge must also be attributed to the Chancellor.

The proceeding resulting in the order passed by the Chancel- lor does not suffer from any such infirmity as would justify this Court in holding that the rules of natural justice were not complied with. It is unnecessary in the circumstances to consider the argument advanced by the Additional

Solicitor-General that even if Mr. Hafiz Mohd. Ibrahim was aware of the order passed by the President ordering compulsory retirement of the appellant from the Indian Administrative Service, it was still open to his successor Sardar Ujjal Singh to determine the tenure of office of the appellant as Vice-Chancellor, if in his view it appeared, having regard to the antecedents of the appellant, that the appellant was unfit to continue as Vice-Chancellor. We agree with the High Court that. the appellant had the fullest opportunity of making his representation and that the enquiry held by the Chancellor was not vitiated because of violation of the rules of natural justice. In the very scheme of our educational set-up at the Univer- sity level, the post of Vice-Chancellor is of very great importance, and if the Chancellor was of the view, after making due enquiry, that a person of the antecedents of the appellant was unfit to continue as Vice-Chancellor, it would be impossible, unless the plea that the Chancellor acted maliciously or for a collateral purpose is made out, for the High Court to declare that order ineffective. The plea that the Chancellor acted mala fide was raised, but was not pressed before the High Court.

The appeal therefore fails. There will be no order as to costs.

R. K. P. S. Appeal dismissed.