POST SCRIPT

RECENT DECISIONS ON THE INTERPRETATION OF PROVISO TO SUB-SECTION (7) OF SECTION 115 OF THE STATES RE-ORGANISATION ACT, 1956.

Re : Part III—Chapter III Page 106.

In the latest pronouncement of the Supreme Court in Mohammad Shujat Ali *V.* Union of India[1] decided on 3-5-1974, the Supreme Court has overruled the decision in Mohd. Bhaker's case[2] and has restored the law declared in the case of Raghavendra Rao.[3] In view of this latest pronouncement, the general approval given by the Central Government amounts to previous approval within the meaning of the proviso to Sub-section (7) of Section 115 of the States Re-organisation Act.[1] As far as the binding nature of any subsequent direction issued by the Central Government under Section 117 of the States Re-organisation Act which has the effect of modifying the general approval given earlier, the decision in Mohammad Bhaker's case continues to be a good law.[4]

No duty to entertain representation before granting previous approval: Though Clause (*b*) of Sub-section (5) of Section 115 of the States Re-organisation Act provides for a right of representation to the Central Government by persons affected by the provisions of the said Section, the said right of representation and the duty on the part of the Central Government to consider these representations do not extend to the granting of previous approval under proviso to Sub-section (7) of Section 115, in view of the 'non-abstante' clause contained in Sub-section (7). The approval required to be secured for varying the condition of service is a limitation on the legislative power of the State and once such approval is given, the limitation stands removed. Therefore, in giving such previous approval, the Central Government is not, in the nature of things, obliged to give opportunity to the persons concerned to make representation against the granting of such approval.[5]

1 Mohammad Shujat Ali *V.* Union of India—W.P. No. 385/1969. DD 3-5-74 (SC)
2 Mohd. Bhaker *V.* Y. Krishna Reddy—SLR 1970 SC 768.
3 Raghavendra Rao *V.* Deputy Commissioner—AIR 1965 SC 136.
4 Mahadevappa *V.* State of Mysore—W.P. No. 1031/74 DD 23-7-74 (Mys).
5 N. K. Anandamma and others. *V.* Union of India—W.P. No. 525/74 DD 30-8-74 Mys. (FB)