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Judgment delivered on 22.05.2012

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..... Petitioner

versus

THE SECRETARY DEPARTMENT OF LEGAL AFFAIRS AND ORS

## ..... Respondents

**Advocates who appeared in this case:**

For the Petitioner : Petitioner-in-person.

For the Respondent :Mr. Rajesh Katyal for R-1 & 2.  
Mr. Naresh Kaushik for R-3.

**CORAM:**

**HON'BLE MR. JUSTICE BADAR DURREZ AHMED**

**HON'BLE MR. JUSTICE V.K.JAIN**

## JUDGMENT

**BADAR DURREZ AHMED, J. (ORAL)**

1. Petitioner who appears in person is aggrieved by the order dated 15.11.2011 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.2851/2011. The petitioner's said original application was dismissed by the said Tribunal.

2. The petitioner was aggrieved by the fact that on de-merger of the cadre of Government Counsel, he has been placed once again in the cadre of Government Advocates which was the cadre to which he belonged prior to the merger of three

separate cadres namely Government Advocates, Legal Advisors and Law Officers of the Law Commission. According to the petitioner, once the merger had taken place, the distinction between the three cadres got obliterated and all trappings of his past service in a different cadre were washed away. This being the position, according to the petitioner, when the de-merger took place and the cadre of Government Counsel was trifurcated into the cadres of Government Advocates, Legal Advisors and Law Officers of the Law Commission, he ought to have been given an option for selecting a cadre of his choice. Since that option was not given and he was placed in the cadre of Government Advocates, he was aggrieved and it is for this reason that he had filed the original application before the Tribunal.

3. The Tribunal after having considered the arguments advanced by the petitioner as also after considering the submissions made on behalf of the respondents, came to the conclusion that there was nothing wrong in the petitioner being placed in the cadre of Government Advocates after de-merger of the cadre of Government Counsel.

4. We may say straightaway that we do not find any infirmity either in the reasoning adopted by the Tribunal or in the conclusion arrived at by the Tribunal. The facts of the case are simple. The petitioner was working as a Government

Advocate in the cadre of Government Advocates. At that point, there were three cadres, namely, the cadres of Government Advocates, Legal Advisors and Law Officers of the Law Commission. With effect from 28.12.2005, these three cadres got merged into one cadre known as the cadre of Government Counsel. The position continues till 2008 when, w.e.f. 10.05.2008, the merged cadre of Government Counsel, for whatsoever reason, was trifurcated into the original three cadres of Government Advocates, Legal Advisors and Law Officers of the Law Commission. On such de-merger, the petitioner was placed in his original cadre of Government Advocates. We see nothing wrong with this procedure, particularly, when the petitioner has neither challenged the merger nor the de-merger itself.

5. The petitioner submits that an option should have been given to the petitioner at the time of de-merger. This implies that an option should have been given to all the persons in the merged cadre of Government Counsel before they were allocated the trifurcated cadres. That would result in administrative chaos because there might be situations where the number of people who opt for a particular cadre cannot be accommodated in that cadre and vice versa. It is also not the case of the petitioner that persons who were junior to him in the Government Advocates cadre prior to merger had become senior to him after de-merger. Their inter-se seniority within the cadre has been maintained. The process of de-merger

has been carried out on the basis that the persons in the original cadre have been allocated the same de-merged cadre. In fact, the petitioner has not been able to point out any instance of there being any interchange in the cadres at the point of de-merger. This position has also been confirmed by the learned counsel appearing on behalf of the respondent.

6. The petitioner sought to place reliance on the decision of the Supreme Court in the case of **K. Ravindranath Pai and Another v. State of Karnataka and Another:** (1995) Supp 2 SCC 246. The Tribunal has dealt with this decision in detail. We have also examined the decision of the Supreme Court in **K. Ravindranath Pai** (*supra*) and find that the same is distinguishable on facts. In the case before the Supreme Court, there were earlier two cadres, one was 'graduate engineers' and the other was 'non-graduate Supervisors'. The appellants before the Supreme Court were in the cadre of non-graduate supervisors. With effect from 03.07.1969, the two cadres got merged into one cadre known as 'Junior Engineers'. From that date, the distinction between graduate engineers and non-graduate supervisors was removed. This position continued till 09.01.1974, when the cadre of Junior Engineers was once again bifurcated into two cadres of Junior Engineers (Division-I) and Junior Engineers (Division-II). The cadre of Junior Engineers (Division-I) comprised of graduate engineers whereas the cadre of Junior

Engineers (Division-II) comprised of non-graduates. The appellants before the Supreme Court who were originally in the cadre of non-graduate supervisors had, in the meanwhile, obtained graduation in 1967 and 1970. But, after the de-merger, they were placed in the category of Junior Engineers (Division-II) which was for non-graduates. This was found to be unreasonable inasmuch as the distinction between the two cadres after 09.01.1974 was on the basis of whether the persons were graduates or non-graduates. Since the intelligible differentia itself was the factum of graduation, the appellant before the Supreme Court had wrongly been placed in the cadre of Junior Engineers (Division-II) which was meant for non-graduates. The Supreme Court, allowing the case of the appellant and by directing that he may be placed in the cadre of Junior Engineers (Division-I) which was for graduates, removed this anomaly and discrimination.

7. The case of the petitioner before us is entirely different. He has not attained any other qualification and, in any event, the trifurcation of the merged cadre of Government Counsel had been done on the very same basis which existed prior to the merger, i.e., on the basis of existence of three different cadres namely Government Advocates, Legal Advisors and Law Officers of the Law Commission. The case of the petitioner is entirely different from that of the case of **K. Ravindranath Pai** (*supra*) and, therefore, the petitioner cannot draw any support therefrom.

8. The petitioner was unable to point out a single legal precedent whereby the Court held that, after merger of cadres, at the point of de-merger, the employees had a legal right of opting for a cadre upon de-merger. As such, we find that the petition has no merit. The impugned order passed by the Tribunal is upheld.

9. The writ petition is dismissed. There shall be no order as to costs.

**BADAR DURREZ AHMED, J**

**V.K.JAIN, J**

**MAY 22, 2012**  
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