

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 211 OF 2007

Maharashtra State Judges Association & Ors. Petitioners

Vs.

The Registrar General, High Court,

High Court of Judicature at Bombay & Anr.

Respondents

J U D G M E N T

K.G. BALAKRISHNAN, CJI

By this Writ Petition filed under Article 32 of the Constitution of India, the Maharashtra State Judges Association and some District Judges, have sought the following directions to the respondents :

(i) to make an uniform single cadre of District Judges by merging the posts of District Judges, Addl. District Judges, City Civil Court Judges,

Chief Judge and Addl. Chief Judges of Small Cause Court, with effect from 13.11.1991 or alternatively with effect from 31.3.1994 (or further alternatively from 1.7.1996) with inter-se seniority being determined with reference to the date of entry into service in the said posts.

(ii) to withdraw the Maharashtra Judicial Service (Seniority) Rules 2007 (for short the 'Rules') and make rules in regard to seniority, in conformity with the decision of this Court, by having a single uniform cadre of District Judges (by merging the aforesaid multiple categories of posts) with effect from 13.11.1991 or 31.3.1994 or 1.7.1996; or in the alternative, to quash the said Rules in particular the proviso to Rule 4(1) of the said Rules.

(iii) to withdraw the draft gradation list of District Judges circulated on 30.3.2007 and make the said list as on 13.11.1991, or 31.3.1994 or 1.7.1996 on the basis of entry of the Judicial Officers in the cadre as District Judges/Addl. District Judges/City Civil Court Judges/Chief Judge and Addl. Chief Judges of Small Court.

Background Facts

2. In the year 1989, a writ petition was filed in this Court by the All India Judges' Association praying for setting up an All India Judicial Service and for bringing about uniform conditions of service for members of sub-ordinate judiciary throughout the country. The judgment in the said petition rendered on 13.11.1991 issuing several directions is reported in *All*

India Judges' Association (I) vs. Union of India [1992 (1) SCC 119]. The said judgment *inter alia* directed the Union of India to take steps to bring about uniformity in the designation of judicial officers (both in civil and the criminal side) by March 31, 1993. This Court adopting the view of the Law Commission in its fourteenth report, observed as follows :

“On the civil side, the State Judicial service, therefore, should be classified as District or Additional District Judge, Civil Judge (Senior Division) and Civil Judge (Junior Division). On the criminal side, there should be a Sessions Judge or Additional Sessions Judge and below him there should be the Chief Judicial Magistrate and Magistrates provided for in the Code of Criminal Procedure. Appropriate adjustments, if any, may be made of existing posts by indicating their equivalence with any of these categories. The process of bringing about such uniformity would require some time and perhaps some monitoring.”

This Court also expressed the view that setting up an All India Judicial Service essentially for manning the higher services in the sub-ordinate Judiciary was necessary and directed the Union of India to take appropriate steps in that regard. By a further order dated 24.8.1993 (reported in 1993 (4) SCC 288 – *All India Judges Association (II) vs. Union of India*), the time to comply with the directions for bringing about uniformity in hierarchy, designations and jurisdictions of judicial officers on both civil and criminal sides was extended upto 31.3.1994.

3. On 21.3.1996, the Government of India by a resolution constituted the First National Judicial Pay Commission ('Commission' for short) under the Chairmanship of Mr. Justice K. Jagannatha Shetty, mainly to evolve the principles which should govern the structure of pay and emoluments of Judicial Officers belonging to the subordinate judiciary all over the country. The Commission submitted its report on 11.11.1999. By its Judgment dated 21.3.2002, this Court in *All India Judges' Association (III) Vs. Union of India & Ors.* - (2002) 4 SCC 247, accepted the recommendations of Shetty Commission subject to the modifications mentioned in the said judgment. The High Courts and the State Governments were required to amend their rules to bring them in conformity with the directions of this Court. This Court further directed "Any clarification that may be required in respect of any matter arising out of this decision will be sought only from this Court. The proceedings, if any, for implementation of the directions given in this Judgment shall be filed only in this Court and no other Court shall entertain them."

4. Justice Shetty Commission had found that in most of the States and Union Territories, there were three cadres of Judicial Officers with uniform designations. But in a few States, there were different designations and

multiple categories. Therefore, the Commission suggested that uniformity be brought about in cadres and designations with uniform jurisdiction. This was also an absolute necessity since Commission proposed to provide uniform pay scales and other emoluments to the Judicial Officers by dividing them into three levels, namely (i) Civil Judge (Junior Division) to be referred to as 'Civil Judges'; (ii) Civil Judge (Senior Division) to be referred to as Senior Civil Judges; and (iii) District Judges. It also recommended pay scales on that basis to be given effect from 1.7.1996.

5. When the report of the Shetty Commission was submitted, the sub-ordinate Judiciary in the State of Maharashtra had multiple categories of Judges with different designations, as follows :

I. Higher Judicial Service

- (a) District Judge (and Joint District Judges)
- (b) Additional District Judge,
- (c) Judges of the Bombay City Civil Court,
- (d) Chief Judge of the Small Causes Court,
- (e) Chief Metropolitan Magistrate,
- (f) Additional Chief Judge of the Small Causes Court, and
- (g) Additional Chief Metropolitan Magistrate.

II. Subordinate Judicial Service

- (a) Metropolitan Magistrate and Judges of the Small Causes Court, Bombay and
- (b) Civil Judge (Senior Division).
- (c) Civil Judge (Junior Division).

Out of them, the following four categories related to mofussil area :

- (a) District Judge,
- (b) Additional District Judge,
- (c) Civil Judge (Senior Division) and
- (d) Civil Judge (Junior Division)

The following other categories were for Mumbai area :

- (a) Judges of the City Civil Court,
- (b) Chief Judge of the Small Causes Court and Chief Metropolitan Magistrate,
- (c) Additional Chief Metropolitan Magistrate and Additional Chief Judge of the Small Causes Court, and
- (d) Metropolitan Magistrates and Judges of the Small Causes Court.

The scales of pay, sources of recruitment and promotional avenues for these posts were also different as detailed below :

Sr. No.	Cadre	Pay as per (IVth Pay Commission)	Pay as per (Vth Pay Commission)	Source of recruitment	Promotional Avenue
1.	Civil Judge (Jr. Division)	2200-4000	8000-13500	Direct recruitment from Bar	Senior Civil Judge
2.	Civil Judge (Sr. Division)	3200-4625	10650-15850	Promotion from C.J (J.D)	A.D.J., SCC, Addl. C.M.M.
3.	Metropolitan Magistrate	3700-5000	12000-18500	Direct recruitment from Bar and by promotion from Civil Judges.	Addl. C.M.M.
4.	Judge, Small Cause Court	3700-5000	12000-18500	By promotion from Civil Judges and by direct recruitment from Bar.	Addl. Chief Judge, SCC

5.	Addl. Chief Metropolitan Magistrate	3700-5000	12000-18500	Promotion from Metropolitan Magistrate and SCC and by transfer of ADJs.	Judge, City Civil Court, Mumbai.
6.	Addl. Chief Judge, SCC, Bombay	3700-5000	12000-18500	Promotion from Judges of Court of SCC or Metropolitan Magistrates.	Judge, City Civil Court, Mumbai.
7.	Addl. District Judges	3700-5000	12000-18500	Promotion from Junior Branch Judicial Service.	Judge City Civil and Sessions Court, Gr. Bombay or District Judge.
8.	Chief Judge, SCC, Bombay	4500-5700	14300-18300	Transfer of District Judge or by promotion of Addl. District Judge/Addl. Chief Judge, SCC/Addl. C.M.M.	Judge, City Civil & Sessions Court, Gr. Bombay.
9.	District Judge / Joint District Judge	4500-5700	14300-18300	Promotion from junior Branch or by direct recruitment from Bar with minimum practice of 7 years.	Eligible for elevation as Judge of High Court.
10.	Judge, City Civil and Sessions Court, Bombay.	5400-6500	16400-20900	Direct recruitment from Bar, by transfer of District Judge, and promotion of Chief Judge, SCC, Addl. Chief Judge, SCC, C.M.M., Addl. C.M.M. and promotion of Addl. Dist. Judges.	Eligible for elevation as Judge of High Court.

6. In view of the acceptance of Shetty Commission's recommendation by this Court and consequential directions, the High Court of Bombay on its administrative side considered the matter in the light of the directions given by this Court and appointed a four- member Committee of Judges under the Chairmanship of Justice S.H. Kapadia of the Bombay High Court (as he then was) to implement the directions of this Court issued while accepting the Justice Shetty Commission Report. The Committee by its report dated 24.8.2002 accepted that there shall be uniform single cadre of District Judges consisting of District Judges, Joint District Judges and City Civil Court Judges (Category-I), Chief Judge, Small Cause Court (Category-IA), Addl. District Judges and Addl. Chief Judges, Small Cause Court (Category-II). The Committee also recommended that 1.7.1996 should be

the date for caderisation. We extract below the relevant portions of the report:

“Constitution of unified cadre

As far as constitution of the cadre of District Judge is concerned, the Committee has equated the three cadres of District Judge, Joint District Judge and City Civil Court Judges into one category/block (hereinafter referred to as Category No.I). This equation is based on numerous factors. For example, Judges of the City Civil Court, Bombay have different sources of recruitment viz., by transfer of District Judge, by promotion from the cadre of Addl. District Judge, Chief Metropolitan Magistrate, Addl. Chief Metropolitan Magistrate, Addl. Chief Judge, Small Causes Court and by nomination. Therefore, a District Judge can be transferred to City Civil Court and vice-versa. Therefore, apart from that post being a promotional post, looking to the nature of the functions discharged in that cadre and the qualifications for recruitment, the Committee has equated the cadres of District Judge, Joint District Judge and City Civil Court Judges into one block/Category No.I. In the same category, however, the Committee has recommended a sub-category styled as Category No.IA, which applies to Chief Judge, Small Causes Court. This sub-category No.IA has been made because the post of Chief Judge, Small Cause Court is a feeder post to the City Civil Court Judges cadre. Therefore, although the Chief Judge, Small Cause Court comes under Category No.I that cadre will be placed after the unified block consisting of District Judge/Joint District Judge/Judges of the City Civil Court. This is also in view of the difference in the pay scale between category No.I and category no. IA. It needs to be clarified that the principle of date of entry, therefore, would apply to category no.I which would cover District Judge/Joint District Judge/Judges of the City Civil Court as a block and the inter-se seniority within that block shall be governed by the date of entry.

Category-I and Category-IA, however, will be placed above Category-II which will cover Addl. District Judges and Addl. Chief Judges, Small Causes Court on the same principles of duties performed, parity of pay-scales and they constituting feeder post for the post of District Judge/City Civil Court Judge.

To sum up, the analysis of Annexure-II shows that in the new cadre of District Judge, category No.I will consist of District Judges, Joint District Judges/City Civil Court Judges. They will constitute one single bloc and that bloc will rank senior to category no.IA consisting of Chief Judge, Small Cause Court and similarly category no.IA as one single bloc will be

placed above category no.II consisting of Addl. District Judges/Additional Chief Judges, Small Causes Court. As stated above, within each bloc, the inter-se seniority will be based on the date of entry in the post and as per the seniority basis in the old cadre. By this method, we are applying the principle of unification of unequal cadres and we are also applying the rule of date of entry for the purposes of seniority inter-se within each bloc. Therefore, the new cadre of District Judge will consist of the above two categories.

Date of Caderization

The Committee considered various options for fixing the date of caderisation. The consensus which ultimately emerged was that the date of caderisation should be taken as 1.7.1996. The reason is as follows. Under the Report of Shetty Commission, the various old cadres are required to be merged into three cadres viz., Civil Judge, Senior Civil Judge and District Judge. It is important to note that under the Report, the financial liability is fixed with effect from 1.7.1996. The pay scales recommended by the Commission have to be given effect to from 1.7.1996. That, for the purposes of pay, the post of Addl. District Judge has to be equated with District Judge. It was not possible for the Committee to have two separate dates – one for caderisation and one for pay fixation. Even as per the judgment of the Supreme Court in All India Judges Association case (supra) decided in 2002, the cut off date for pay fixation and for payment of other allowances is 1.7.199. Therefore, the Committee is of the view that the date of caderisation will be taken on 1.7.1996. In fact, after fixing the date of caderisation as 1.7.199, the Committee has worked out the above categorization on en block basis keeping in mind the various principles laid down in the judgment of the Supreme Court in Kulkarni's (supra) case. In other words, 1.7.1996 is the cut off date. In other words, applying 1.7.1996 as the cut off date, the Committee has evolved the above categorization/blocks for the purposes of unifying the various old cadres into three cadres and, at the same time, the Committee has applied the principle of the date of entry for fixing the inter-se seniority within each block/category. The committee is of the view that this is the only method by which the various cadres could be unified/merged keeping intact the seniority of the judicial officers in each category/block.”

7. Several writ petitions were filed before this Court challenging the recommendations of Justice Kapadia Committee report. WP(C) 258/2003 was filed by the petitioner Association and some of its members. WP(C)

No.75/2004 was filed by persons appointed as City Civil Court Judges from the Bar after 1.7.1996 (1997 batch). WP(C) No.157/2004 was filed by persons appointed from the Bar as District Judges after 1.7.1996 (after initially serving as Addl. District Judges for minimum period of 2 years as per BJSR Rules 1956. WP(C) No.429/2004 was filed by persons appointed as District Judge from the Bar after 1.7.1996 and prior to 21.3.2002 (date of decision in All India Judges' Association III). This Court by a common Judgment dated 15.2.2006 disposed of these Writ Petitions with the following observation:-

“We are of the view that it would be expedient if the High Court first examines the grievances made in the petition having regard to all relevant considerations. Further, we hope that the High Court would be in a position to decide the same expeditiously. It may be clarified that we have not examined the matter on merits and express no view one way or the other.

In this view, we dispose of these Writ Petitions/Applications with liberty to anyone who may be aggrieved to approach the appropriate forum.”

8. The High Court of Bombay on its administrative side considered the matter as per the directions given by this Court and appointed a fresh Committee of three Judges under the Chairmanship of Justice Gokhale, a Judge of the High Court (as he then was). The said Committee submitted its Report dated 19.9.2006. The said Report did not disturb the constitution of the unified cadre of District Judges recommended by Justice Kapadia

Committee. It also reiterated the recommendation of Justice Kapadia Committee that the date of caderisation should be 1.7.1996. But taking note of hardship to certain sections, on account of retrospective caderisation, it suggested a modification to protect the seniority of Judicial Officers who obtained their positions either as City Civil Judges or District Judges by direct appointment or by promotion between 1.7.1996 and 31.3.2003. The reasoning of the Committee in this behalf is extracted below :

“As we have noted above, the judgment in the Judges’ Case No.III contains the directions to integrate the cadre and to implement the Shetty Commission Report with respect to revised pay scales. This direction was given in this judgment rendered on 21st March, 2002. The benefits with respect to revision in pay have been given from 1st July, 1996 as directed. We have adopted the same date as the date of caderisation. The rules were directed to be framed at the earliest and in any case, by 31st March, 2003. It can, therefore, be said that the Judicial Officers had a notice that the new rules and the integrated cadre and seniority were to come in force in any case by 31st March, 2003. It is another matter that the rules have not been finalized so far and, therefore, the Bombay Judicial Service Recruitment Rules, 1956 are still in force. As seen in Anil Kumar Shetye’s case (supra), the Apex Court has in terms noted that the Addl. District Judge’s post is a feeder post to that of a City Civil Court and that the salaries of the City Civil Court Judges are also higher. In para 29 in Judges’ Case No.III, the Apex Court has noted as seen above that the existing relative seniority of the members of the Higher Judicial Service has to be protected. This will have to be done until the new Rules come into force. It is true that as observed in BM Gupta’s case (supra), the Judges’ Case Nos.I and II brought about changes in certain service conditions. However, the integration of the cadres and their seniority remained to be decided. The Judges who have been either appointed directly as the City Civil Court Judges or the District Judges or who have been promoted in the meanwhile as District Judges will, therefore, have to be protected in the matter of their seniority. This will have to be done for those Judges who obtained such positions until 31st March, 2003.”

9. The recommendations given by Justice Gokhale Committee were considered and accepted by the Full Court of the Bombay High Court on 3.2.2007. In pursuance of it, the Government of Maharashtra in consultation with the High Court of Bombay framed the Maharashtra Judicial Service (Seniority) Rules, 2007 ('Rules' for short) giving effect to the directions of this Court. The said Rules were deemed to have come into force from 1.7.1996. Rule 4 deals with Initial Seniority of Officers forming unified cadre of District Judges. Sub-rules (1) and (2) which are relevant are extracted below :

“(1) On the date of commencement of these rules, initial seniority of Officers who are to form the unified cadre of District Judges shall be determined as under:-

(a) Separate lists of officers as on 1st July, 1996 in the existing cadres of District Judges, Judges of City Civil and Sessions Court, Chief Judges and Additional Chief Judges of Small Causes Court, and Additional District Judges in accordance with their existing seniority shall be drawn up.

(b) (i) Lists of District Judges/Joint District Judges and Judges of City Civil Court shall be merged by arranging the names of Officers according to their respective dates of entry in any of these posts, either on temporary or regular basis, provided that while so merging the lists, *inter-se*-seniority of Officers in each original cadre shall be maintained.

(ii) The name of Chief Judge of Court of Small Causes shall be appended to the list prepared as per sub-clause (i) above:

Provided that those appointed as City Civil Court Judges or District Judges after 1st July, 1996 but before 31st March 2003, either by direct recruitment or

promotion, shall be included in a common list, wherein they shall be listed in an order of seniority based on the date of their appointment to the respective posts. Officers included in this list, shall be placed en-bloc in the initial seniority list, immediately below those included under rule 4(1)(b)(i) and before those covered by rule 4(1)(b)(ii) and 4(1)(c).

(c) List of Additional District Judges and Additional Chief Judges of the Court of Small Causes shall be merged by arranging the names of Officers according to their dates of entry on any of these posts, either on temporary or regular basis, provided that while so merging the lists, *inter-se-seniority* of officers in each original cadre shall be maintained.

List so prepared shall be appended to the list prepared as per clause (b)(i) above, below the Chief Judge, Court of Small Causes.

(2) Officers appointed to posts in the unified cadre of District Judges on or after 1st July, 1996 other than those covered by the proviso to rule 4(1)(b)(ii) shall be placed below the Officers in the seniority list as on 1st July, 1996 and below those covered under rule 4 (1) according to the dates of their first permanent or temporary appointment on regular basis to any of the posts in the unified cadre of District Judges.

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Contentions and issues:

10. According to the petitioners, the caderisation of the District Judges of various categories should have been with effect from 31.3.1994 and not 01.7.1996 having regard to the directions contained in the judgments dated 13.11.1991 and 24.8.1993 in *All India Judges Association I and II*. It is

pointed out that the State of Maharashtra did not seek review of the directions given in *All India Judges Association I and II*. It is alternatively contended that once the date of caderisation is accepted as 01.7.1996, the seniority should have been reckoned from the date of entry into the service, of Judicial Officers of various categories *which were unified into a single cadre of District Judges*. It is contended that having been done, introduction of the proviso to Rule 4(1) to the effect that those appointed as Judges or District Judges of City Civil Court after 01.7.1996, but before 31.3.2003, either by direct recruitment or promotion, shall be included in a common list and shall be placed *en bloc* in the initial seniority list, immediately below those included in Rule 4(1)(b)(i) and before those covered by Rule 4(1)(b)(ii) and 4(1)(c), is illegal and violates the principle of equality. It is submitted that while purporting to bring about uniformity of cadre as directed by this Court, any effort to re-fix seniority of certain class of claimants by placing them above others would defeat the very purpose of bringing uniformity and will lead to inconsistencies and contradictions. It is submitted that the proviso intends to safeguard the interests and fulfil the alleged legitimate expectations of certain sections, at the cost and expense of interests of other sections who also have legitimate expectations. On the contentions urged two points arise for our consideration :

- (i) Whether the caderisation (merger of posts of District Judges/Joint District Judges/City Civil Court Judges/Chief Judge of Small Causes Court/Addl. District Judges/Addl. Chief Judge of Small Cause Court) should be with effect from 31.3.1994 instead of 1.7.1996?
- (ii) Whether insertion of proviso to Rule 4(1) to protect the seniority of persons appointed by direct recruitment or promotion between 1.7.1996 to 31.3.2003 is illegal and discriminatory?

Re : Point (i)

11. This Court by order dated 13.11.1991 in *All India Judges Association (I)* had directed that steps should be taken to bring about uniformity in hierarchy, designations and jurisdictions of the Judicial Officers on both civil and criminal sides by 31.3.1993. It is submitted that while Union of India and some other States had sought review of the first order dated 13.11.1991, the State of Maharashtra did not seek either review of the order or sought extension of time for implementation. By subsequent order dated 24.8.1993 while disposing of the review petition, this Court in *All India Judges Association (II)*, extended the time for bringing about uniformity in hierarchy, designations and jurisdictions of the Judicial Officers up to 31.3.1994. It is therefore contended that the state of Maharashtra was bound to comply with the said orders and, consequently, ought to have brought in

caderisation by having a single and uniform cadre of District Judges latest by 31.3.1994. It is submitted that even if there was some delay, the caderisation when made, ought to have been given retrospective effect from 31.3.1994. Reliance is placed on the decision of *Anil Kumar Neotia v. Union of India* [1988 (2) SCC 587] and *T.R. Kapoor v. State of Haryana* [1989 (4) SCC 71] to contend that the orders of this Court are binding on all and should be implemented within the time specified. It is contended that the caderisation by constituting a unified cadre of District Judges with effect from 1.7.1996 violated the earlier orders dated 13.11.1991 and 24.8.1993.

12. The contention of the petitioner that the failure to have a uniform cadre of District Judges with effect from 31.3.1994 amounts to disobedience of the orders dated 13.11.1991 and 24.8.1993, cannot be accepted. All that was directed by the order dated 13.11.1991 in *All India Judges Association (I)* was that uniformity should be brought in the designations of judicial officers as District or Addl. District Judge, Civil Judge (Senior Division) and Civil Judge (Junior Division) on the civil side and Sessions Judge or Additional Sessions Judge, Chief Judicial Magistrates and Magistrates on the criminal side. Even in the *All India Judges Association(II)*, what was directed by order dated 24.8.1993 was implementation of the Law

Commission's recommendations to bring about uniformity in hierarchy, designations and jurisdiction of officers both on civil and criminal sides, as directed on 13.11.1991. There was no specific direction to integrate into a single unified cadre, wherever multiple categories existed. It was only when the Shetty Commission recommended that there should be only three cadres, namely, Civil Judge (Junior Division), Civil Judge (Senior Division) and District Judges, and pay scales were also recommended with reference to said three cadres, it became necessary to unify or integrate the multiple categories into three cadres of District Judges, Civil Judge (Senior Division) and Civil Judge (Junior Division). As Shetty Commission had recommended the applicability of new pay-scales with effect from 1.7.1996, it became inevitable to have the integration/unification of the multiple categories into three cadres, with effect from 1.7.1996. Further, this Court in *All India Judges Association(III)* directed on 21.3.2002 acceptance of Shetty Commission recommendations for having three cadres of District Judges, Civil Judge (Senior Division) and Civil Judge (Junior Division) with effect from 1.7.1996. Therefore, the caderisation was rightly given effect from 1.7.1996 under the Rules. The contention that it ought to have been with effect from 13.11.1991 or 31.3.1994 has no merit. The first point is answered accordingly.

Re : Point (ii)

13. Justice Kapadia Committee recommended equation of the cadres of District Judges, Joint District Judges and City Civil Court Judges into one block (category 1); Chief Judge, Small Causes Court as category-1A; and Additional District Judges and Additional Chief Judges of Small Cause Court as Category-II. The said Committee further recommended that in the integrated seniority/gradation list, category-1A be placed below category-I, and category-II be placed below categories 1 and 1A. Justice Gokhale Committee agreed with the said unification/integration in the manner recommended by Justice Kapadia Committee. Consequently when the rules were made a unified cadre of 'District Judges' was formed in the following order, namely :-

- I. District Judges/Joint District Judges/City Civil Court Judges
(Inter se seniority will be on the first date of entry in any of the posts either on temporary or regular basis)
- 1A. Chief Judge, Small Causes Court,
- II. Additional District Judges/Additional Chief Judges, Small Causes Court.
(Inter se seniority will be as per their first date of entry in either of the posts, either on temporary or on regular basis.)

Thus, there was unanimity among the two Committees in regard to the unification of the cadre of District Judges as above, and that the date of categorization should be 1.7.1996. This was accepted by the High Court and State Government. As noticed above, the recommendation of Justice Kapadia Committee in regard to the unification in the manner aforesaid, with effect from 1.7.1996, was objected to by the three categories of District Judges : (a) by persons who were directly recruited as City Civil Court Judges after 1.7.1996; (b) by persons who were directly recruited as District Judges after 1.7.1996 and (c) by persons who were directly recruited as District Judges prior to 1.7.1996 to initially work as Additional District Judges till confirmation and notified as District Judges after 1.7.1996. The effect of unification and caderisation with effect from 1.7.1996 was that the Additional District Judges and Additional Judges of the Small Causes Court (described as category-II by the Committees) would have been placed above those directly recruited as City Civil Court Judges or District Judges after 1.7.1996.

14. We have already noticed that caderisation by integration of multiple categories of posts was not suggested either in *All India Judges Association (I) or (II)*. What was suggested therein was merely uniformity in hierarchy,

designation and jurisdictions of judicial officers in civil and criminal sides. Shetty Commission, as a corollary to its pay scale recommendation, recommended that there should be only three cadres : District Judges, Civil Judge (Senior Division) and Civil Judge (Junior Division), and multiple categories should be avoided. But the recommendation made in the report dated 11.11.1999 was not binding, until it was accepted by this Court and rules were framed in terms of it. The said recommendation was accepted in *All India Judges Association(III)* by judgment dated 21.3.2002. By the said order, this Court granted time up to 31.3.2003 to implement the said recommendations. Until the recommendation was accepted and rules were framed, the integration/caderisation was a nebulous concept incapable of being claimed or enforced as a right. Further, if caderisation was suggested only on 11.11.1999 and accepted by this court only on 21.3.2002 by granting time for implementation till 31.3.2003, the seniority of all those who were appointed to the higher post of City Civil Court Judges and District Judges between 1.7.1996 and 31.3.2003 vis-à-vis those who were in the lower level post of Addl. District Judges and Addl. Chief Judge of Small Cause Court, had to be protected. It should be remembered that when appointments were made to the post of District Judges or City Civil Court Judges either by direct recruitment or by promotion between 1.7.1996 and

31.3.2003, there was no rule or enforceable direction for caderisation by integrating the lower posts of Addl. District Judges and Addl. Chief Judges of Small Cause Court with the higher posts of District Judges/City Civil Court Judges/Chief Judge of Small Cause Courts. Merely because caderisation by integration was required to be done with effect from 1.7.1996 as Shetty Committee recommendations for revised pay scales were given with effect from that date, it does not follow that the persons who were appointed between 1.7.1996 and 31.3.2003 in the higher posts of District Judges/City Civil Court Judges should lose their seniority to persons who were holding lower posts when they were appointed. Those holding the posts of Addl. District Judges and Addl. Chief Judge of Small Cause Court were at a rung lower than District Judges/City Civil Court Judges/Chief Judge of Small Cause Court and time was available till 31.3.2003 to equate them with the higher posts in the hierarchy. Such a benefit was conferred in pursuance of the order dated 21.3.2002 with effect from the date of making rules for which the last date stipulate was 31.3.2003. Therefore Justice Gokhale Committee rightly recommended that the seniority of those appointed between 1.7.1996 and 31.3.2003 should be protected. All that the proviso to Rule 4(1) has done is to provide the protection to which those mentioned in the said proviso were entitled. There

is nothing discriminating or illegal in the said proviso. Those in the category of Additional District Judges or Addl. Chief Judges of Small Cause Court have not made any legal right to be placed above those recruited to the higher post of District Judges and City Civil Court Judges between 1.7.1996 and 31.3.2003.

15. We therefore uphold the validity of the Rules. Consequently, the writ petition is dismissed as having no merits.

.....CJI
[K. G. BALAKRISHNAN]

.....J
[R. V. RAVEENDRAN]

.....J
[J. M. PANCHAL]

NEW DELHI;
DECEMBER 11, 2008.