CHAPTER I

REORGANISATION*

Object and method

Integration of services means the creation and evolving of a homogeneous service by the blending and amalgamation of service personnel belonging to separate services. The task of integration may arise in the context of reorganisation of states or re-organization of services of a state or on the taking over of private establishment by the state. The personnel of the various services, who come together as a consequence of re-organization of states or reorganisation of services of a state or on the taking over of private establishment by the state together with their service personnel, necessarily do not possess the same attributes or incidence. Diversity in regard to qualifications, the conditions of service, the grades, the duties and responsibilities and jurisdiction, in relation to each of those services is an inevitable factor. Multitude of difficulties is inevitable in bringing about a proper coalescence of those services. For such amalgamation, the posts in the services of one category have to be equated with the posts in the service of the other. In effecting integration, the first step would be to evolve the principles on the basis of which the integration of services has to be effected. The principles have got to be determined in respect of two matters, viz., (i) for determining equivalence of post, (ii) for determination of seniority as among persons holding equivalent posts. After the principles on the basis of which the integration of services has to be effected are determined, the next step consists in the examination of facts relating to every category or class of posts with reference to the criteria laid down for determining equivalence and to take a decision in the matter. After the equation of posts are settled, the third step would be the preparation of a common seniority list including therein the personnel who were holding posts which are equated to one category.[1] While it is not within the domain of the court to make equation of posts for the purpose of integration, it is surely the concern of the court to see that before the integration is made and consequent fitment of officers in different grades or scales of pay is affected, there must be an equation of different posts in accordance with the principle of functional equivalence and co-equal responsibility.[2]

* Revised by Jaya V.S., Assistant Research Professor, ILI.

1 *M.A. Jaleel* v. *State of Mysore*, 1961 Mys LJ 425.

2 *N.P. Verma* v. *Union of India*, 1989 (1) SLR 796.

Special provision in the context of reorganisation of states

The power to regulate matters relating to services unde the various states specified in the first schedule to the Constitution of India is an exclusive power of the states under Entry 41 of List II of seventh schedule to the Constitution read with article 309. Therefore, normally, it is the exclusive power of the state to deal with its services either in exercise of its legislative power or rule making power or in the absence of law or rules, in exercise of its executive power under article 162 of the Constitution to effect integration of its services necessitated by reorganisation of its administrative set up or taking over of private organization or establishments together with their service personnel. But in the context of reorganisation of states Parliament has the power to divert the newly formed state of its power to deal with its services in so far as it relates to civil servants affected by a law relating to reorganisation of states and to make provision for integration of services in a newly formed state. Article 2 and 3 empower Parliament to form new states by separating the territory from any state or by uniting two or more states or parts of any state. When Parliament in exercise of its powers forms a new state in the manner provided under articles 2 and 3, such a law made by Parliament should also necessarily contain provisions for bringing into existence a new administrative set up for the new states, which are formed under such a law. A law made by Parliament in exercise of its powers under articles 2 and 3 may also contain such provisions, which are supplemental, incidental and consequential as Parliament deems it necessary. Clause (3) of the article further provides that no such law shall be deemed to be an amendment of the Constitution for purposes of article 368. The effect of the said provision is that though the supplemental, incidental or consequential provisions incorporated in such an enactment bring about an amendment of the provisions of the Constitution in relation to its applicability to the newly formed states, such provision shall have effect as if the Constitution is amended to that extent in relation to its applicability to the new states.[3] The integration of services in a newly formed state which comprises areas of more than one state is necessarily supplemental, incidental and consequential to the reorganisation plan because when a new state is created and the component parts of that state are areas which were in more than one state, civil servants holding posts in those areas have got to become civil servants of the new state so as to have an administrative machinery. Therefore, Parliament which enacts law of re-organization of states has undoubted powers to provide in that law for the integration of services on which there was a confluence, owning to formation of the new state. Parliament has passed the following important enactments in exercise of its powers under

3 *M.A. Jaleel* v. *State of Mysore*, 1961 Mys LJ 425: AIR 1961 Mys 210; *Madappa Chidri* v. *Apparao*, 1960 Mys LJ 780: AIR 1960 Mys 310: *Union of India* v. *P.K. Roy*, AIR 1968 SC 850.

articles 2,3 and 4 containing provisions relating to integration of services:

(i) The Andhra State Act, 1953.[4]

(ii) The States Reorganisation Act, 1956.[5]

(iii) The Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959.[6]

(iv) The Bombay Reorganisation Act, 1960.[7]

(v) The Punjab Reorganisation Act, 1966.[8]

It is the exercise of that power of Parliament which is found enacted in sections 114 to 117 of the States Reorganisation Act and corresponding provisions in other laws made by Parliament relating to reorganisation of states under which the power to effect integration of services in the newly formed states is vested in the central government. By enacting the said sections, there was n attenuation of the normal powers of the new states, namely, the power to make integration of their services under the Constitution, which would have normally formed part of the power of the state.

Similarly in respect of the services under the high court, the power to regulate recruitment and conditions of service is vested in the chief justice under article 229 of the Constitution. But when the provisions relating to integration of services provided by an Act of Parliament made in exercise of its powers under articles 2,3 and 4 vests the power to allot officer and servants to the high court of the new states from among officers and servants of the high courts of erstwhile states and to effect integration of services in relation to the high court of a newly formed state, in the central government, the normal power of the chief justice under article 229 has to yield to the power of the central government under such a provision. Consequently no final integration of service in respect of allottees under the States Reorganisation Act can be accomplished by the chief justice.[9]

States Reorganisation Act, 1956

The States Reorganisation Act, 1956 was enacted by Parliament to effect a major reorganisation of states in India. The division of service personnel of the erstwhile states as among the newly formed states and their integration in each newly formed state was a major consequential problem to be dealt with, to bring about a new administrative set up for the newly formed states.

4 Ss.61 to 64 of the Andhra State Act, 1953.

5 Ss.114 to 117 of the States Re-organiation Act, 1956.

6 S.43 of the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959.

7 Ss.80 to 83 of Bombay Re-organisation Act.

8 Ss.80 to 84 of the Punjab Re-organisation Act, 1966. Also see, *Teja Singh* v. *Union Territory of Chandigarh*, 1984 Supp. SCC 657

9 *B.A. Patil* v. *Hon'ble the Chief Justice*, AIR 1966 Mys 81.

Accordingly, sections 114 to 117 were incorporated in the States Reorganisation Act for purposes of bringing about a smooth transfer of administration of the concerned territories from the pre-existing states to the new states and for the creation of new administrative set up. The central government was empowered to effect division and integration of services. The principles settled in relation to the integration of services under the biggest re-organization scheme are dealt with hereinafter. It furnishes sufficient guidance in dealing with problems of integration of services in any other situation also.