

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00355-00359/2016

ORIGINAL APPLICATION NO.170/00362 & 00364/2016

ORIGINAL APPLICATION NO.170/00365-00377/2016

ORIGINAL APPLICATION NO.170/00631-00632 & 00634-00635/2017

AND

ORIGINAL APPLICATION NO.170/00182/2020

DATED THIS THE 23RD DAY OF MARCH, 2021

ORDER RESERVED ON 04.03.2021

DATE OF ORDER: 23.03.2021

CORAM:

HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)

HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)

1) OA Nos.170/00355 to 359/2016

1. R. Shivakumara,
S/o Rajappa,
Aged about 32 years,
Working as Deputy Superintendent
Of Police, Malavalli Sub-Division
Behind Taluk Office, Malavalli,
Mandya District – 571 430.

2. Lakshmi Ganesh,
S/o V. Krishnappa,
Aged about 33 years,
Working as Deputy Superintendent
Of Police, Magadi Sub-Division,
Magadi, Bangalore District.

3. T.J. Udesha,
S/o T.V. Jayadeva,
Aged about 32 years,
Working as Deputy Superintendent
Of Police, Mandya Sub-Division,
Mandya, Mandya District.

4. Sachin Ghorpade
S/o Parshuram Ghorpade,
Aged about 33 years
Deputy Superintendent of Police
Presently working as Assistant
Commissioner of Police, Traffic
East Sub-Division, Bangalore City.

5. V.J. Sajeeth
S/o Janardan,
Aged about 33 years,
Deputy Superintendent of Police,
Presently working as Assistant
Commissioner of Police, CCB,
Bangalore City

(By Shri P.S. Rajagopal, Senior Advocate along with Shri Jayanth Dev Kumar, Advocate)

Vs.

1. State of Karnataka
Represented by its Chief Secretary,
Karnataka Government Secretariat,
Vidhana Soudha,
Bengaluru – 560 001

2. Secretary to Government of Karnataka,
Department of Personnel and
Administrative Reforms,
Karnataka Government Secretariat,
Vidhana Soudha, Bengaluru – 560 001

3. Union of India,
By its Secretary,
Department of Personnel, Public
Grievances and Pensions,

North Block, New Delhi – 110 001

4. Union Public Service Commission,
Dholpur House, New Delhi – 110 001
by its Secretary.

5. Sri M.V. Ramakrishna Prasad,
S/o late M.R. Venugopal,
Aged about 50 years
Commandant,
Karnataka State Reserve Police,
Presently working as Supdt. of Police,
State Intelligence,
No. 2, Nrupathunga Road, Bengaluru.

6. Sri Basavaraj Zille,
S/o Sharanappa
Aged about 48 years,
Commandant, VI Battalion,
Karnataka State Reserve Police, Kalaburagi.

7. Dr. Ramakrishna Muddepal,
S/o Mr. Venkataramana Muddepal
Age: 45 years
Posted and Residing as Commandant and Principal,
Karnataka State Reserve Police Training School
Munirabad, Koppal District

8. Raghunatha KS
S/o Shivanna Nayaka,
Aged about 44 years
Commandant, 4th Battalion,
Karnataka State Reserve Police
Bengaluru 560 034

(Shri Dhyan Chinnappa, Additional Advocate General, Karnataka,
along with Shri M. V. Ramesh Jois, State Government Counsel for
Respondents No. 1 & 2
Shri M.V. Rao, Counsel for Respondent No. 3,
Shri M. Rajakumar, Counsel for Respondent No.4,
Shri Ajoy Kumar Patil, Counsel for Respondent No. 5 & 8
Shri M.S. Bhagwat, Counsel for Respondent No. 6,
Shri Arjun Rao for Respondent No. 7 and
Shri P.A. Kulkarni, Amicus Curie)

2) OA 170/00362 & 00364/2016

1. Sri Kumaraswamy
S/o Anjanappa
Aged about 54 years,
Working as SP CID,
No. 1468, 5th Cross, Chandra Layout,
1st Stage, 2nd Phase,
Bangalore – 560 040

2. Ravindra Kashinath Gadadi,
S/o Kashinath,
Aged about 38 years
Addl. SP Belagavi Post,
No. 750, Scheme – 40, 5th Stage,
Hanumanthanagar,
Belagavi – 590 001

(None present for the applicants)

Vs.

1. The Union of India,
Rep by its Secretary,
Department of Personnel and Training,
North Block, New Delhi – 110 001.

2. The Union Public Service Commission,
Dholpur House,
Shajahan Road,
New Delhi – 110 001.

3. The State of Karnataka
Represented by its Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Vidhana Veedhi,
Bangalore – 560 001.

4. The State of Karnataka,
Rep. by its Principal Secretary,
Department of Personnel and
Administrative Reforms,
Vidhana Soudha,

Vidhana Veedhi,
Bangalore – 560 001.

5. The State of Karnataka,
Reptd: by its Principal Secretary,
Department of Home,
Vidhana Soudha,
Vidhana Veedhi,
Bangalore – 560 001

6. The Director General and
Inspector General of Police,
State of Karnataka,
No. 2, Nrupathunga Road,
Bangalore – 560 002.

7. Sri M.V. Ramakrishna Prasad,
S/o late M.R. Venugopal,
Aged about 50 years,
Commandant,
Karnataka State Reserve Police,
Presently working as Supdt.of Police,
State Intelligence,
No. 2, Nrupathunga Road, Bangalore .

8. Sri Basavaraj Zille,
S/o Sharanappa,
Aged about 48 years,
Commandant, VI Battalion,
Karnataka State Reserve Police
Kalaburagi.

(Shri M.V. Rao, Counsel for Respondent No.1,
Shri M. Rajakumar, Counsel for Respondent No.2,
Shri Dhyan Chinnappa, Additional Advocate General, Karnataka, along
with Shri M. V. Ramesh Jois, State Government Counsel for
Respondents No.3-6
Shri Ajoy Kumar Patil, Counsel for Respondent No. 7
Shri M.S. Bhagwat, Counsel for Respondent No. 8 and
Shri P.A. Kulkarni, Amicus Curie)

3) OA 170/00365-00377/2016

1. Dr. Shivakumar,

S/o Mallappa Gunare,
Aged about 38 years,
Working as Superintendent of Police,
Karnataka Lokayuktha,
Bellary, Bellary District.

2. Sri Mallikarjuna Baladandi,
S/o Yallappa M. Baladandi,
Aged about 34 years,
Working as Deputy Commissioner
Of Police (Crime and Traffic),
Hubli –Dharwar City,
Hubli, Dharwad District

3. Sri Amarnath Reddy Y
S/o Sharanappa,
Aged about 35 years,
Working as Deputy Commissioner
Of Police (Crime and Traffic)
Belagavi City, Belagavi District

4. Sri Pavan Nejjur,
S/o Uday Nejjur,
Aged about 35 years,
Working as Superintendent of Police,
Karnataka Lokayuktha
Hassan Division,
Hassan

5. Sri Sriharibabu B.L
S/o Linganna B.M,
Aged about 31 years,
Working as Superintendent of Police,
Internal Security Division,
Mangalore, D.K. District.

6. Smt. Geetha M.S
W/o Prasanna,
Aged about 33 years,
Working as Principal,
Police Training School (North),
Thanisandra, Bangalore .

7. Smt. Yashodha Vantagodi,

W/o Sunil Vantagodi,
 Aged about 35 years,
 Working as Superintendent of Police,
 Karnataka Lokayuktha,
 Dharwad Division, Dharwad

8. Sri Rajeev M
 S/o Godayya
 Aged about 37 years
 Working as Superintendent of Police,
 DCRE, Belagavi

9. Dr. Shobharani V.J.,
 D/o Jagannath,
 Aged about 35 years
 Working as Additional Superintendent of Police,
 Hassan District, Hassan

10. Dr. Sowmyalatha
 W/o Dr. Shsheen Dutt,
 Aged about 35 years
 Working as Superintendent of Police,
 Financial Intelligence Unit,
 C.I.D., Bangalore

11. Smt. Kavitha B.T.,
 W/o Nagashayana R,
 Aged about 36 years,
 Working as Superintendent of Police &
 Principal, Police Training School,
 Jyothinagar, Mysore

12. Smt. Umaprashanth,
 W/o Prashanth Kumar S.B.,
 Aged about 33 years
 Working as Deputy Superintendent
 Of Police, Karnataka Lokayuktha,
 Karwar, U.K. District

(By Shri Shashi Kiran Shetty, Senior Advocate, along with Shri
 Shamanth Naik, Advocate)
 Vs.

1. The Union of India,

Rep by its Secretary,
Department of Personnel, Public
Grievances and Pensions,
North Block,
New Delhi – 110 001.

2. Union Public Service Commission,
Dholpur House,
New Delhi
Rep by its Secretary,

3. The State Government
Rep by its Chief Secretary,
Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore – 560 001.

4. The Secretary to Government,
Department of Personnel and
Administrative Reforms,
Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore – 560 001.

5. The State of Karnataka
Rep by its Secretary,
Department of Home,
Vidhana Soudha,
Bangalore – 560 001.

6. Sri M.V. Ramakrishna Prasad,
S/o late M.R. Venugopal,
Aged about 51 years
Commandant,
Karnataka State Reserve Police,
Presently working as Supdt. of Police,
State Intelligence,
No. 2, Nrupathunga Road, Bangalore .

7. Sri Basavaraj Zille,
S/o Sharanappa
Aged about 48 years,
Commandant, VI Battalion,
Karnataka State Reserve Police, Kalaburagi

(Shri M.V. Rao, Counsel for Respondent No.1,
 Shri M. Rajakumar, Counsel for Respondent No.2,
 Shri Dhyan Chinnappa, Additional Advocate General, Karnataka, along
 with Shri M. V. Ramesh Jois, State Government Counsel for
 Respondents No. 3 to 5
 Shri Ajoy Kumar Patil, Counsel for Respondent No. 6
 Shri M.S. Bhagwat, Counsel for Respondent No. 7 and
 Shri P.A. Kulkarni, Amicus Curie)

4) OA 170/00631-00632 & 00634-00635/2017

1. A. Kumara Swamy,
 S/o A.N. Janappa,
 Aged about 55 years
 Working as Superintendent of Police,
 CID, Bangalore & R/a No. 1468, 5th
 Cross, Chandra Layout, 1st Phase,
 2nd Stage, Bangalore – 560 040.

2. H.T. Shekhar,
 S/o Hanumanthappa,
 Aged about 36 years,
 Working as Superintendent of Police,
 ACB, Mysore & R/a JCO-8, Police
 Officers Quarters, Jalpuri
 Mysore.

3. Mrs. Anitha B. Handdannauar,
 D/o Haddannauar Bhimanna
 Aged about 37 years,
 Working as Superintendent of Police,
 Betegere Health Camp,
 Gadag, Karnataka.

4. M. Narayana
 S/o Devaiah,
 Aged about 37 years,
 Working as Superintendent of Police,
 Vigilance, & R/a No. 27, Bommaiah
 Buildings, Near Kathriguppe Water Tank,
 Girinagar, Bangalore – 560 056.

(None for the applicants)

Vs.

1. State of Karnataka

Represented by its Chief Secretary,
Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore – 560 001.

2. Secretary to Government of Karnataka,

Department of Personnel and
Administrative Reforms,
Karnataka Government Secretariat,
Vidhana Soudha, Bangalore – 560 001.

3. The Union of India,

By its Secretary,
Department of Personnel, Public
Grievances and Pensions,
North Block, New Delhi – 110 001.

4. Union Public Service Commission,

Dholpur House,
New Delhi – 110 001
by its Secretary.

5. Sri M.V. Ramakrishna Prasad,

S/o late M.R. Venugopal,
Aged about 51 years
Commandant,
Karnataka State Reserve Police,
Presently working as
Superintendent of Police,
State Intelligence,
No. 2, Nrupathunga Road, Bangalore

6. Sri Basavaraj Zille,

S/o Sharanappa
Aged about 48 years,
Commandant, VI Batallion,
Karnataka State Reserve Police, Kalaburagi.

(Shri Dhyan Chinnappa, Additional Advocate General, Karnataka,
along with Shri M. V. Ramesh Jois, State Government Counsel for
Respondents No. 1& 2

Shri M.V. Rao, Counsel for Respondent No. 3,
 Shri M. Rajakumar, Counsel for Respondent No.4,
 Shri Ajoy Kumar Patil, Counsel for Respondent No. 5 and
 Shri M.S. Bhagwat for Respondent No. 6)

5) OA 170/00182/2020

1. M.V.Ramakrishna Prasad,
 S/o Late M.R.Venjugopal,
 Aged about 54 years,
 Commandant, 3rd Battalion,
 Karnataka State Reserve Police,
 Koramangala,
 Bengaluru -560 034. ...Applicant

(By Advocate Shri Ajoy Kumar Patil)

Vs.

1. The State of Karnataka,
 Represented by its Chief Secretary,
 Karnataka Government Secretariat,
 Vidhana Soudha, Bengaluru – 560 001.
2. The Secretary to Government of Karnataka,
 Department of Personnel and Administrative Reforms,
 Karnataka Government Secretariat,
 Vidhana Soudha, Bengaluru – 560 001.
3. The Additional Chief Secretary,
 Home Department,
 Government of Karnataka,
 Karnataka Government Secretariat,
 Vidhana Soudha, Bengaluru – 560 001.
4. The Director General and Inspector
 General of Police,
 Government of Karnataka,
 Nrupatunga Road,
 Bengaluru – 560 001.

(By Dhyan Chinnappa, Additional Advocate General, Karnataka along with Shri M.V.Ramesh Jois for Respondents)

ORDER**PER: SURESH KUMAR MONGA, MEMBER (J)**

With the consent of learned counsels for the parties, by way of this common order, we propose to dispose of OA No. 170/00355-359/2016 R. Shivakumara and others vs State of Karnataka and others, OA No. 170/00362 & 364/2016 Kumaraswamy and another vs Union of India and others, OA No. 170/00365-377/2016 Dr. Shivakumar and others vs Union of India and others, OA No. 170/00631 – 632 & 634 - 635/2017 A. Kumara Swamy vs. State of Karnataka and others and OA No. 182/2020 Ramakrishna Prasad vs State of Karnataka and others as a common question of law and fact is involved in all these cases.

OA 170/00355-359/2016 R. Shivakumara and others vs State of Karnataka and others

2. Pleaded case of the applicants herein is that they are the members of the Karnataka Police Service and presently holding the posts of Deputy Superintendent of Police/Assistant Commissioner of Police in Sub-divisions of Districts for the purposes of police administration. Pursuant to selections made by the Karnataka Public Service Commission, they were appointed in the services of the State of Karnataka as members of the Karnataka Police Service by way of direct recruitment. Since they are holding the charge of Sub-divisions

of the Districts for the purposes of police administration, therefore, as such they are the members of the Principal Police Service in the State of Karnataka. It has been averred that the applicants have the unblemished record of service and they are looking forward for promotions to Indian Police Service as per their turn, and if they are not promoted to Indian Police Service, the only promotion available to them will be to the post of Superintendent of Police and thereafter for the rest of their service they have to stagnate.

3. The Central Government in exercise of its powers conferred by Section 3 (4) of the All India Services Act, 1951 has made the Indian Police Service (Recruitment) Rules, 1954 (hereinafter called as the '1954 Rules'). Under Rule 4 of the said rules, recruitment to the Indian Police Service is required to be made by two methods viz., by competitive examination and by promotion of substantive members of the State Police Service. The rule does not prescribe any specific quota between direct recruitment by competitive examination and promotion from amongst the substantive members of the State Police Service. According to Rule 4 (2) of the said Rules, it is to be determined by the Central Government in consultation with the Union Public Service Commission and with State Government concerned. Rule 9 lays down the norms regarding recruitment by promotion. As envisaged by Rule 9 (1), the Central Government in consultation with

the State Government and the Union Public Service Commission has made the regulations known as Indian Police Service (Appointment by Promotion) Regulations, 1955 (hereinafter called as the '1955 Regulations'). According to the '1954 Rules' and the '1955 Regulations' only those members of the State Police cadre who belong to Principal Police Service of the State are treated as members of State Police Service for consideration for promotion to Indian Police Service.

4. It has further been averred that right from the formation of the State of Karnataka it is only the members of the Principal Police Service of the State, who are being treated as members of the said police service for the purposes of promotion to Indian Police Service. The State Government, without any exercise of evaluation required for declaration of equivalence, merely based on a letter of Director General and Inspector General of Police issued an order dated 23.12.1991 declaring the posts of Deputy Superintendent of Police (Wireless), Assistant Commandant (Karnataka State Reserve Police) and Deputy Superintendent of Police (Armed Constabulary) as equivalent to the post of Deputy Superintendent of Police (Civil) for the purposes of promotion to Indian Police Service. Not so happy with the consequences produced by the said declaration of equivalence, the State Government on the recommendations of the Director General

and Inspector General of Police vide its order dated 02.03.1996 constituted one man committee of R. Ramalingam, IPS (retired) for police reforms. The said committee, after thorough examination of the entire matter, recommended that the aforesaid order of equivalence be rescinded. The Government while accepting the said recommendations of the R. Ramalingam committee had issued an order dated 18.07.1996 whereby order of equivalence dated 23.12.1991 was rescinded.

5. It has been stated that on representations of the Assistant Commandants of Karnataka State Reserve Police (hereinafter called as the 'Reserve Police'), the State Government vide its order dated 04.01.2008 appointed another Committee headed by P.S. Ramanujam, IPS with three other members to look into the promotional avenues for directly recruited Assistant Commandants of the Reserve Police. The said committee vide its report dated 26.06.2000 recommended that the Assistant Commandants of the Reserve Police be declared equivalent to the Deputy Superintendent of Police (Civil) for the purposes of promotion to Indian Police Service. The matter rested there.

6. It has further been stated that by way of a representation dated 04.01.2008, the directly recruited Assistant Commandants of the 'Reserve Police' revived a demand for declaration of equivalence.

Thereafter, his Excellency the Governor of Karnataka wrote a letter to the State Government stating therein that one Mr. Mane, an Officer belonging to 'Reserve Police' should be considered for promotion to Indian Police Service by declaring the Assistant Commandants of Reserve Police as equivalent to Deputy Superintendent of Police (Civil). Thereafter, the State Government appointed a High Power Expert Committee consisting of Additional Chief Secretary to Government, Additional Chief Secretary to Government (Home Department), Director General of Police and Inspector General of Police, and the Secretary to Government, Department of Personnel and Administrative Reforms. The said High Power Committee vide its report dated 20.05.2009 suggested that the recommendations of P.S. Ramanujam Committee be rejected.

7. However, the State Government, without even referring to the report of the said High Power Committee, issued the order dated 01.10.2010 and resurrected the order which was rescinded in the year 1996 and declared the posts not below the grade of Deputy Superintendent of Police in the Wireless Wing, 'Reserve Police' and the Karnataka Armed Police as equivalent to the Principal Police Service for the purposes of promotion to Indian Police Service for the vacancies available in the year 2009.

8. Questioning the condition no. 3 imposed in the Government Order dated 01.10.2010, certain persons approached this Tribunal. During pendency of the said cases before this Tribunal, the Government of Karnataka issued an order dated 21.07.2011 rescinding its earlier order dated 01.10.2010. However, this Tribunal vide order dated 07.12.2011, while disposing of OA No. 471/2010, 443/2020, 486/2010, 41/2011, 54/2011, 269/2011, 294/2011 filed by the officers working in auxiliary police forces declared that all the officers in the police force were equal.

9. Questioning the aforesaid order dated 07.12.2011 passed by this Tribunal, Writ Petition No. 3269/2012, 3506-3507/2012, 6639-42/2012, 3609/2012, 5542/2012, 6393/2012 and 7148-53/2012 came to be filed before the Hon'ble High Court of Karnataka. The Hon'ble High Court by way of its judgment and order dated 25.04.2013 reversed the order passed by this Tribunal and while allowing the said Writ Petitions quashed the order dated 01.10.2010 with further directions.

10. Pursuant to aforesaid judgment and order dated 25.04.2013 passed by the Hon'ble High Court, the State Government issued an order dated 22.11.2013 whereby a committee (hereinafter called as the A.R. Infant Committee) was constituted to assess the request of Auxiliary Police Force officers for promotion to Indian Police Service as per the directions of the Hon'ble High Court. By way of an Official

Memorandum dated 27.12.2013, the Chairman of the said committee called upon all concerned to make their representations and consequent thereto, the applicant by way of identical representations dated 04.01.2014 pointed out distortions in the order constituting the committee and sought corrective action. Instead of hearing the objectors like the applicant individually, the A.R. Infant Committee adopted a procedure unheard of and resorted to an exercise of 'Open House'.

11. Such Open Houses, two or three in number, were held. Many of the Civil Police personnel could not attend as notices were not served upon them. Various important questions were raised on behalf of the Civil Police apart from reiterating the contentions raised in their representations. It has further been pleaded that when the question of equivalence is being considered for forming feeder cadres for promotion, it necessarily has to take into account the nature of training undergone and experience gained in the feeder cadre qua the duties to be performed, responsibilities to be undertaken and overall job content of the promotional post which became crucially relevant. Entry level qualification for all forces concerned commencing from the level of Sub-Inspector is a degree from a recognized university. While a percentage of posts in the cadre of Deputy Superintendent of Police, a cadre in Principal Police Force and Assistant Commandant in

Karnataka State Reserve Police are filled by direct recruitment through Karnataka Public Service Commission. In the Auxiliary Force of Armed Police and Wireless, there is no direct recruitment to the post of Deputy Superintendent of Police and entire cadre of Deputy Superintendent of Police is filled by promotion from the rank of Inspector. A Sub-Inspector in 'Reserve Police' get promoted to the rank of Assistant Commandant in a span of 10 to 11 years, whereas, for a Sub-Inspector in Civil Police it takes close to 30 years to reach the cadre of Deputy Superintendent of Police. After making narration of mode of selection and promotional opportunities in the Principal Police Force and the Auxiliary Police Forces, it has further been averred that the Deputy Superintendent of Police (Civil) recruited directly, undergo a training programme for two years at the Karnataka Police Academy, Mysore.

12. Similarly, the Assistant Commandant in the 'Reserve Police' directly recruited also undergo a training programme for a period of two years at the State Academy. First year of the training programme is common for all Gazetted Probationers Group A and Group B irrespective of the department to which they belong. However, in the second year training programme which is police specific, the training undergone by the Deputy Superintendent of Civil Police and the Assistant Commandant of the 'Reserve Police' are entirely different.

The training undergone by the Deputy Superintendent of Police (Civil) has direct relevance to the duties and responsibilities of Indian Police Service and the training undergone by Assistant Commandant of the 'Reserve Police' is wholly irrelevant for field duties to be performed by the member of Indian Police Service. A Deputy Superintendent of Police (Civil) undergo basic course at the Police Academy and the contents of the basic course are set out in Appendix V to the Karnataka Police Manual. The training imparted to Assistant Commandant of the 'Reserve Police' is contained in Appendix XXXVII to the Karnataka Police Manual. There is a substantial difference between the training imparted to Deputy Superintendent of Police (Civil) and Assistant Commandant of the 'Reserve Police' in the matter of powers and duties exercisable by the two cadres and the job contents of the two posts are set out in various orders contained in the Police Manual. Deputy Superintendent of Police are known as Sub Divisional Police Officers and their duties and responsibilities are enumerated in orders/paras 160 to 197 of the Karnataka Police Manual whereas the duties of the Assistant Commandants of 'Reserve Police' are confined to order/para 1684 of the Police Manual. Even the senior-most Assistant Commandant who is designated Adjutant of the Battalion performs the functions set out in para 1683 of the Police Manual. It has further been stated that without examining any of the

criteria that is required to be looked into, the A.R. Infant Committee submitted a baldy and laconic report dated 25.07.2015 and recommended that equivalence may be established between Deputy Superintendent of Police (Civil) and the directly recruited Assistant Commandant of the 'Reserve Police' subject to certain conditions.

13. A High Power Committee headed by the Chief Secretary to Government of Karnataka and consisting of Additional Chief Secretary (Home), Principal Secretary to Government, Department of Personnel and Administrative Reforms and the Director General and Inspector General of Police was set up to study the A.R. Infant Committee report and make its recommendations. The said Committee while recording elaborate reasoning, rejected the recommendations of the A.R. Infant Committee in so far as it recommended grant of equivalence to the directly recruited Assistant Commandant of 'Reserve Police' with the Deputy Superintendent of Police (Civil). When the said recommendations dated 05.09.2015 were put up before the Hon'ble Chief Minister, it was ordered that the Assistant Commandants of 'Reserve Police' should be granted equivalence for the purposes of promotion to the Indian Police Service and any problems arising into the matter of implementation thereof are to be dealt with separately. Faced with the said dictate of the Hon'ble Chief Minister (hereinafter called as the Political Executive), the High Power Committee again

appears to have met and followed the wishes of the Political Executive and the Government Order dated 23.01.2016 came to be issued.

14. With all these assertions, the applicants have prayed for quashing of the Government Order dated 23.01.2016.

OA 170/00362 & 364/2016 Shri Kumaraswamy and another Vs.

Union of India and Ors.

15. The applicants in this Original Application are directly recruited Deputy Superintendents of Police. They came to be appointed in the year 2008 and, according to them, they are fully qualified and eligible to be considered for promotion to the Indian Police Service. It has been submitted that the 4th respondent has passed an order declaring equivalence in respect of Assistant Commandants of the 'Reserve Police', as equivalent to the Civil Police Service for the purposes of promotion to Indian Police Service. The applicants are aggrieved by the order dated 23.01.2016. It has been averred that except the Deputy Superintendent of Police (Civil), the other three wings i.e. Wireless, Armed Reserve and the 'Reserve Police' of the police force were never considered for promotion to Indian Police Service for the past 3 decades except one Shri A.G. Ayachit by Notification dated 24.02.1994 and Shri M.C. Narayanagowda from Karnataka State Reserve Police vide Notification dated 11.10.1995.

16. The applicants in this case also submitted that the duties and responsibilities of the Assistant Commandants of 'Reserve Police' are mainly that they would be in charge of two or more companies of 'Reserve Police' and they would be responsible for the efficiency, discipline and training and welfare of the 'Reserve Police'. The Assistant Commandants would never carry out the duties and responsibilities as carried out by the Deputy Superintendent of Police (Civil) such as investigation of crime and maintenance of law and order etc. Further, the duties of Deputy Superintendent of Police (Armed Reserve) and Deputy Superintendent of Police (Wireless) are maintaining the platoons of Armed Reserve and Wireless respectively. They would also not carry out the functions of Principal Police Force and they are not in charge of any Sub-Division of a district. It has further been averred that for the regulation of the police force to maintain public order and for other matters in the State of Karnataka, the Karnataka Police Act, 1963 (hereinafter called as the '1963 Act') was enforced with effect from 20.02.1964. The term 'Police Officer' has been defined under Section 2 (16) of the '1963 Act' that the Police Officer means any member of the police force appointed or deemed to be appointed under the said Act and include a special or additional police officer appointed under Section 19 or 20. It has been stated that in respect of State Reserve Police Force there is a separate Chapter X

in the '1963 Act'. Under Section 144 of the said Act, the term 'Reserve Police Officer' means any member of the State Reserve Police Force established under Chapter X of the said Act. Section 145 of the '1963 Act' provides for the constitution of State Reserve Police Force. The applicants have further submitted that the State Government had issued an order dated 23.12.1991 declaring the equivalence of three cadres of the police force as equivalent to the Deputy Superintendent of Police (Civil). Subsequently, the said order came to be withdrawn by an order dated 18.07.1996 on the basis of a committee report dated 23.03.1996. Thereafter, the State Government passed an order dated 01.10.2010 declaring Police Wireless, Karnataka State Reserve Police and the Karnataka Armed Police Force not below the rank of Deputy Superintendent of Police as equivalent to Deputy Superintendent of Police (Civil) for the purposes of promotion to the Indian Police Service for the vacancies available in the year 2009 only. Thereafter some of the Deputy Superintendents of Police (Civil) made representations and the order dated 01.10.2010 came to be withdrawn on 21.07.2011. The order dated 21.07.2011 was challenged by the candidates belonging to the Auxiliary Police services before this Tribunal and vide order dated 07.12.2011 the Original Applications were allowed. Thereafter Writ Petition No. 3269/2012 was filed before the Hon'ble High Court of Karnataka which was allowed vide order dated 25.04.2013 wherein

various directions were issued to the respondents. Pursuant to said order, a Committee was constituted to assess the request of the Auxiliary Police Force officers for promotion to Indian Police Service. The applicants submitted their objections before the Committee. The said Committee submitted its report and pursuant to which the order dated 23.01.2016 came to be issued by the Government. The applicants have alleged that the said order is violative of the provisions of the '1963 Act', '1954 Rules' as well as the '1955 Regulations'.

OA 170/00365-377/2016 Dr. Shivakumar and Others Vs. Union of India and Ors.

17. The applicants in this Original Application are the State Civil Police officers of 2010 batch from the State of Karnataka and presently they are working as Superintendents of Police (Non-IPS). They all are directly recruited as Deputy Superintendent of Police through Gazetted Probationary Competitive Examination conducted by the Karnataka Public Service Commission. They were further promoted to the post of Superintendents of Police (Non-IPS). In the recruitment of police officers through Gazetted Probationary Competitive Examination, the persons who have scored higher marks are allotted to the main police service and the persons who scored lesser marks are allotted to Karnataka State Reserve Police. The main police service in the State Government is Civil Police Service which deals with the maintenance

of law and order, investigation of crime and maintaining detection and prevention of crime. Apart from the main police service, there are other Auxiliary Police Services in the State Government such as Karnataka State Reserve Police, Central Armed Reserve and Wireless Police. In the Auxiliary Police Services, i.e. Karnataka State Reserve Police, Central Armed Reserve and Wireless, there is no recruitment to the post of Deputy Superintendent of Police but they are recruited as Assistant Commandants. In terms of the '1955 Regulations', the applicants are entitled to be considered for promotion to the cadre of Indian Police Service. The State Government while exercising its power under 2 (i) (j) of the '1955 Regulations', issued a Notification dated 01.10.2010 declaring the Auxiliary Police Services viz., Police Wireless, Karnataka State Reserve Police and Central Armed Reserve not below the rank of Deputy Superintendent of Police as equivalent to the post of Deputy Superintendent of Police (Civil) for the purposes of promotion to Indian Police Service. The said Notification was challenged by the officers working in the cadre of Deputy Superintendent of Police (Civil). Ultimately the Original Application was disposed of by holding that by operation of Section 3 of the '1963 Act', there exists only one single police service from 15.05.1975 onwards. Aggrieved by the said order, Shri B.S. Lokesh Kumar and others had filed Writ Petition No. 3269/2012 connected with Writ Petition No.

3506-07/2012, 6639-42/2012, 3609/2012, 5542/2012, 6393/2012 and 7148-53/2012. The said Writ Petitions were allowed and the orders passed by this Tribunal were set aside. While allowing the said Writ Petition, the Hon'ble High Court directed the authorities to constitute a 'broad based expert committee' to resolve these disputes at the earliest. Pursuant thereto, a three member committee was constituted by way of a Government Order dated 22.11.2013. Some of the applicants submitted their representations to the committee stating therein that the other Auxiliary Police Services cannot be equated with the Principal Police Service as their duties and responsibilities are entirely different. It was also brought to the notice of the committee that the Auxiliary Police Services are not in charge of the Sub-Division and they are not entitled for promotion to the cadre of Indian Police Service. The Committee without looking into these aspects had submitted its report on 25.07.2015 to the Chief Secretary to Government of Karnataka with the recommendations that directly recruited Assistant Commandants of the 'Reserve Police' may be declared as equivalent to the cadre of Deputy Superintendent of Police (Civil). On the basis of the said recommendations, the Government issued the order dated 23.01.2016 declaring the Assistant Commandants, 'Reserve Police' as equivalent to Deputy Superintendent of Police (Civil). The applicants have prayed for

quashing of the said order alleging that the same cannot be sustained being contrary to Articles 14 and 16 of the Indian Constitution as well as Regulation 2 (i) (j) of the '1955 Regulations'.

OA 170/00631-635/2017 A. Kumara Swamy and Others Vs.

State of Karnataka and Ors.

18. Pleaded case of the applicants in this case is that pursuant to selection by the Karnataka Public Service Commission, they joined the services of 1st respondent as members of the Karnataka Police Service between the years 2007 and 2009. From the very beginning, the applicants, being members of the civil police which is the Principal Police Service of the State, have been holding the charge of a Sub-Division of a district for the purposes of police administration. They have an excellent unblemished record of service and are legitimately looking forward for promotion to Indian Police Service as per their turn. Right from the time of formation of the State of Karnataka, it is only the members of Principal Police Service who are being considered for the purposes of promotion to Indian Police Service.

19. While making almost the similar assertions, the applicants herein have further pleaded that without examining any of the criteria, the A.R. Infant Committee submitted a baldy and laconic report dated 25.07.2015 pursuant to which the Government issued the order of

equivalence dated 23.01.2016. Calling in question the said order, certain persons working in the cadre of Deputy Superintendent of Police challenged the equivalence order dated 23.01.2016 before this Tribunal in OA No. 170/00355-359/2016. During pendency of the said Original Application, a communication is sent from the 1st respondent to Director General and Inspector General of Police on 01.09.2017 stating therein that in terms of the order of equivalence dated 23.01.2016 promotions to Indian Police Service will have to be considered from the State Civil Police and the Auxiliary Police Force viz., Karnataka State Reserve Police. One more communication was addressed to the Director General and Inspector General of Police on 17.10.2017 stating therein that the select list of 2016 promotion to Indian Police Service will have to be considered in terms of the communication dated 01.09.2017 and the committee will have to be constituted for the said purpose within a period of two days. The applicants in this Original Application are aggrieved by these two communications dated 01.09.2017 and 17.10.2017.

OA 182/2020 M.V. Ramakrishna Prasad V/s. State of Karnataka and Ors.

20. Pleaded case of the applicant in this case is that he was directly recruited as Assistant Commandant in Karnataka State Reserve Police through the Karnataka Public Service Commission. The post of

Assistant Commandant in the Karnataka State Reserve Police is equivalent to the post of Deputy Superintendent of Police of Principal Police Service. The applicant has been promoted as Commandant and has put in about 23 years of service in the cadres of Assistant Commandants/Commandants. He is presently working as Commandant which is equivalent to the post of Superintendent of Police (Non-IPS).

21. It has further been submitted that the Government of Karnataka, after considering all aspects of the matter and the reports of various expert committees constituted for the purpose of evaluating the issue regarding declaration of equivalence between the Civil Police Services and the Auxiliary Police Services in the State of Karnataka, had issued Government Order dated 23.12.1991 declaring the posts of Deputy Superintendent of Police (Wireless), Assistant Commandants, KSRP and Deputy Superintendent of Police (Armed Reserve) as equivalent to the post of Deputy Superintendent of Police (Civil). On the basis of the order dated 23.12.1991, the cases of eligible candidates of KSRP, Wireless and City Armed Reserve were considered for promotion to the cadre of Indian Police Service and they were promoted as such. Subsequently, for the reasons best known to the State Government and due to pressure from the members of the Civil Police Services, the Government vide order dated 18.07.1996 rescinded the order dated

23.12.1991. It has further been averred that the Government of Karnataka once again issued another GO dated 01.10.2010 declaring equivalence between the Civil Police Services and the Auxiliary Police Services declaring that the posts of Deputy Superintendent of Police (Wireless), Assistant Commandants, KSRP and Deputy Superintendent of Police (Armed Reserve) are equivalent to the post of Deputy Superintendent of Police (Civil). The said Government Order was challenged before this Tribunal by way of Original Application No. 471/2010 and other connected matters. During pendency of the said Original Application, the Government came out with an order dated 21.07.2011 rescinding the order dated 01.10.2010. However, this Tribunal vide order dated 07.12.2011 dismissed the aforesaid Original Applications and directed the State Government to consider the names of all the officers of Karnataka Police in all streams of policing of the rank of Deputy Superintendent of Police and above for promotion to Indian Police Service. The order passed by this Tribunal was challenged before the Hon'ble High Court in Writ Petition No. 3269/2012 and other connected matters by the State Government and the members of the Civil Police Service. The Hon'ble High Court vide order dated 25.04.2013 allowed the Writ Petition and set aside the equivalence order dated 01.10.2010. The State Government was directed to constitute a 'broad based expert committee' to resolve the

issues at the earliest. Accordingly, the State Government constituted the A.R. Infant Committee which recommended that directly recruited Assistant Commandants of KSRP should be declared as equivalent to the Deputy Superintendent of Police of the Principal Police Service. The State Government accepted the recommendations of the A.R. Infant Committee report and declared that the Assistant Commandants of KSRP are equivalent to the Deputy Superintendent of Police of the Principal Police Service for the purpose of promotion to Indian Police Service and issued a Government Order dated 23.01.2016 in this regard. The said Government Order was again challenged by the members of the Civil Police Services before this Tribunal in Original Application No. 170/00355-359/2016 and other connected matters. The Tribunal vide order dated 21.06.2019 dismissed the said Original Applications and directed the State Government to follow the various orders and guidelines for inclusion of names of all eligible officers in the select list for promotion to Indian Police Service. It has further been pleaded that in view of the directions issued by this Tribunal, the respondents are legally and judicially bound to forward names to Union Public Service Commission for promotion to Indian Police Service as per the equivalence order dated 23.01.2016. The applicant submitted a representation dated 29.07.2019 along with other similarly situated directly recruited KSRP officers requesting the respondents to forward

his name to Union Public Service Commission for promotion to Indian Police Service. However, no action has been taken by the respondents on the said representation. The applicant, being aggrieved, has invoked the jurisdiction of this Tribunal seeking a direction to respondents to give effect to the Government Order dated 23.01.2016 and forward his name to Union Public Service Commission for consideration for promotion to Indian Police Service for the select list 2016 onwards.

22. The State of Karnataka while filing the reply statement in OA No.362-364/2016 has stated that pursuant to orders passed by the Hon'ble High Court of Karnataka on 25.04.2014 in W.P.No.3265/2011, a three member Expert Committee was constituted under the Chairmanship of A.R.Infant, IPS (Retd), vide Government order dated 22.11.2013 to resolve the disputes between Civil Police Service and Auxiliary Police Service officers. Accordingly, the Expert Committee after examining the representations received from officers of the civil police and other wings of auxiliary police service like KSRP, Wireless, District Armed Reserve, Finger Print Bureau and DySP detectives, CID and the recommendations made by various committees such as Ramalingam Committee and Ramanujam Committee and also after examining the prevalent situations in the neighbouring States, submitted a report on 25.07.2015 making therein a recommendation

that only directly recruited Assistant Commandants of KSRP should be considered for appointment to the Indian Police Service. It has been further averred that the respondents after carefully examining the said report and after detailed consideration of all the aspects of the matter, declared equivalence between Principal Police Force and the Assistant Commandants of KSRP for the reasons that Assistant Commandants of KSRP and DySP of Civil Police are not only recruited through common combined competitive written examination and personality test, but also undergo the same basic training at the Karnataka Police Academy. The respondent State of Karnataka enumerated one more reasons to support the Government order dated 23.01.2016 that the Assistant Commandants of KSRP acquire experience of management and resource management as performed in the districts by the SPs. They also handle law and order problems in coordination with civil officers and moreover recruitment process for civil officers and Assistant Commandants of KSRP are one and the same.

23. While refuting the assertion made by the applicants that the duties and responsibilities of the officers of KSRP are different as compared to civil police and distinction on the basis of more marks scored in the competitive examination, it has been stated in the reply statement that the candidates are allotted various Group-A and B

services on the basis of their merit and availability of posts being called for. Whenever there was a law and order problem not only do the Civil Police take part in the maintenance of law and order, KSRP officers are also called upon, which shows that commandants of KSRP are second to none in the maintenance of law and order. By making these assertions, the contentions of the applicants that the Commandants of KSRP are not competent in holding the charge of sub-division and discharging the duties of police, has been refuted. It has still further been averred that the respondents after carefully considering the duties and responsibilities of Commandants of KSRP and comparing them with that of the Civil Police and after carefully considering the recommendations of Expert Committee constituted for the purpose, declared the equivalence between the Civil police and Commandants of KSRP. It is not the first time that the respondents have declared the equivalence between Civil Police and the KSRP. In the year 2010, equivalence between Civil Police and Assistant Commandants of KSRP was declared by way of GO No. DPAR 115 SPS 2010 dated 01.10.2010.

24. It has further been stated that as per the '1955 Regulations', a minimum eligible criteria for promotion to Indian Police Service is that any State Service Officer should have completed minimum 8 years of continuous service (officiating or substantive) in the post of Deputy

Superintendent of Police or in any other post or posts equivalent, declared thereto by the State Government. In order to say that there is no injustice caused to the applicants by implementation of Government order dated 23.01.2016, it has been stated that the applicants belong to most junior batch and they have put in just four years of service and thus they will not fall in the zone of consideration. The Government has issued equivalence order dated 23.01.2016 based on the directions of the Hon'ble High Court and report submitted by the Expert Committee.

25. In Original Applications No 631-632 & 634-635/2016 – A.Kumaraswamy and others vs. State of Karnataka, wherein the subsequent letters dated 01.09.2017 and 17.10.2017 are under challenge, the respondent State of Karnataka while filing its reply has stated that those letters are internal correspondence between the Government and the Director General and Inspector General of Police and since the internal correspondence between the two departments are wings of administration, therefore, those cannot be subject matter of challenge before any court of law. According to respondents, there is no substance in the allegations made by the applicants as the letter dated 01.09.2017 was issued by Secretary to Government, Department of Home and was addressed to DG&IG of Police asking them to submit their proposal and the letter dated 17.10.2017 is a letter

issued by the Secretary to Government, Department of Home reminding the DG&IG of Police to send the information at the earliest. It has further been averred that the proposal has not yet been forwarded to UPSC and it is in the preliminary stage of collecting information only. Once the information is collected it will be scrutinized according to the existing guidelines and certified proposals will be forwarded to UPSC. According to respondents no cause of action has accrued in favour of the applicants. Apart from this, it has also been stated in paragraph-3 of the reply statement that the State Government has already filed its detailed reply statement in other connected original application and as such there is no need to reiterate the stand of State Government and opted to adopt the said reply.

26. With all the aforesaid assertions made in the reply statements filed in OA No.362 & 364/2016 and OA No.631-632 & 634-635/2016, the respondents have prayed for dismissal of all the above captioned original applications.

27. Heard learned counsels for the parties.

28. Shri P.S. Rajagopal, learned Senior Advocate while opening his arguments submitted that the order dated 23.01.2016 vide which the Government has declared the Assistant Commandants of 'Reserve Police' as equivalent to Deputy Superintendent of Police (Civil), is arbitrary and the same cannot be sustained being based on A.R.

Infant Committee report dated 25.07.2015, which suffers from various flaws. According to learned senior counsel, the A.R. Infant Committee constituted by the Government cannot be termed to be a 'broad based expert committee' in consonance with the orders of the Hon'ble High Court and, therefore, the report submitted by the said committee could not have been taken into consideration by the Government while issuing the order dated 23.01.2016. Learned senior counsel while referring to the dictionary meaning of phrase 'broad based' (Oxford Learners Dictionary – English 8th Edition) submitted that a committee which comprises of wide variety of people can only be termed to be a broad based committee. Since the committee did not comprise of the people of wide variety, therefore, the said committee constituted by the Government was not competent and was not having expertise to determine the equivalence between the 'Reserve Police' and the 'Principal Civil Police' of the State.

29. Shri Rajagopal has further gone to the extent that the persons having served the Police Department for 20 years or more cannot be termed to be the experts. According to learned senior counsel, even the report submitted by an expert is considered as advisory in character and the credibility of such an advice depends on the reasons stated in support of conclusions. In support of the said argument, reliance has been placed upon a judgment of the Hon'ble Supreme

Court in **State of Himachal Pradesh vs Jai Lal and Ors** –1999 (7)

SCC 280.

30. While elaborating his argument further Shri Rajagopal, learned senior counsel submitted that the A.R.Infant committee report still could not have been relied upon by the Government as while submitting the report the said committee has relied upon the irrelevant material and has also ignored the relevant material. It was incumbent upon the State Government to apply its independent mind and since it was influenced by irrelevant and extraneous matter, therefore, the order dated 23.01.2016 cannot be sustained.

31. Learned senior counsel further submitted that the A.R. Infant Committee was conscious of the fact that the Assistant Commandants of 'Reserve Police' lack experience in basic police functions and duties but still the said Committee recommended the equivalence of directly recruited Assistant Commandants of 'Reserve Police' with the Deputy Superintendent of Police (Civil) finding the compulsory training after induction into IPS as a substitute of experience of a Deputy Superintendent of Police (Civil) which in any case cannot be termed to be a sound reason. Shri Rajagopal further submitted that even the High Power Committee constituted by the Government to examine the said report was not satisfied and it made recommendation to not to

give declaration of equivalence to Assistant Commandant of 'Reserve Police' with the Deputy Superintendent of Police (Civil).

32. Shri Shetty, learned Senior Advocate representing the applicants in OA No.365-377/2016, while toeing almost the similar line of argument further submitted that the A.R. Infant Committee has not gone into the question of the nature of functions and duties being performed by different forces while determining their equivalence. The relevant factors have totally been ignored. Learned senior counsel while drawing our attention towards paragraph 51 of the judgment rendered by the Hon'ble High Court in Writ Petition No.3269/2012 submitted that though this Tribunal cannot go into the question of equivalence of two services determined by the expert committee but still the exceptions carved out in the said paragraph cannot be ignored and if it appears to this Tribunal that the declaration of equivalence is made without application of mind to the nature and responsibilities of the functions and duties attached to the non-cadre post or extraneous or irrelevant factors are taken into account in determining the equivalence or the nature and responsibilities of the functions and duties of the two posts are so dissimilar that no reasonable man can possibly say that they are equivalent in status and responsibility, then certainly an order of equivalence of two services can be set aside. Shri Shetty submitted with vehemence that the A.R. Infant Committee has

not gone into the question of nature of work being undertaken by different forces. According to learned senior counsel, this Tribunal can lift the veil and can examine as to whether irrelevant factors have been taken into consideration and the relevant factors have been ignored in the process of determining the equivalence of two services.

33. Shri Shetty further submitted that even the Government while issuing the order dated 23.01.2016 has not recorded the reasons and, therefore, the said order cannot be sustained being contrary to the principles laid down by the Hon'ble Supreme Court in **Secretary & Curator, Victoria Memorial Hall Vs. Howrah Ganatantrik Nagrik Samity and others 2010 (3) SCC 732 and S.N. Mukherjee vs Union of India 1990 (4) SCC 594**

34. Shri Chinnappa, learned Additional Advocate General, Karnataka while defending the order dated 23.01.2016 submitted that an active consideration has taken place on the A.R. Infant Committee report at the highest level in the Government as the said report was examined by a High Power Committee which ultimately recommended the declaration of equivalence of two services and the order dated 23.01.2016 came to be issued. Shri Chinnappa submitted that the applicants cannot be allowed to condemn the said order of equivalence by saying that the A.R. Infant Committee was not a 'broad based expert committee'. According to Shri Chinnappa, the Government

vide its order dated 22.11.2013, constituted the 'broad based expert committee' strictly in terms of the directions issued by the Hon'ble High Court in Writ Petition No.3269/2012. The committee invited the suggestions from all sections and after having detailed open house sessions, the report was submitted. The applicants herein did not lay a challenge to the order vide which the A.R.Infant Committee was constituted by the Government. They participated in whole of the exercise being undertaken by the said committee by way of submitting their suggestions and objections. Now when the Government, after accepting the report of the said committee has issued the order dated 23.01.2016, they cannot be allowed to say that the constitution of committee was bad and the report submitted by it could not have been relied upon by the Government.

35. Shri Chinappa further submitted that this Tribunal cannot enter into the question to find out the fault in the order of equivalence issued by the Government as the said order is an outcome of an advice and recommendation of an Expert Committee. This Tribunal cannot enter into the arena of an expert on the subject.

36. Shri Ajay Kumar Patil, learned Counsel who represented Respondent No.5 in OA No.355-359/2016 and the original applicant in OA No.182/2020 submitted that though as per Section 3 of the '1963 Act', there is one police force for whole of the State which includes the

State Reserve Police Force as well, but in order to claim declaration of equivalence between Assistant Commandants of Reserve Police and the Deputy Superintendent of Police (Civil), he will not rely upon the provisions of the said section. According to Shri Patil, if a service is not a duly constituted police service in terms of Regulation 2(i)(j)(ii) of the '1955 Regulations', no exercise can be undertaken to declare a Police Service equivalent to the Principal Police of a State.

37. Learned Counsel while referring to the provisions of Rule-3, Clause-8 of Schedule-1 of the Karnataka Recruitment of Gazetted Probationers (Appointment by Competitive Examination) Rules, 1996, submitted that Respondent No.5 is a member of a duly constituted service. As per Section 145 of the '1963 Act', the State Government has constituted the State Reserve Police Force. As per Section 146 of the said Act, the Government can appoint an Assistant Commandant in Karnataka State Reserve Police in the rank of Deputy Superintendent. While referring to provisions of Section 145 and 146 of the '1963 Act', learned counsel has raised the argument that the Assistant Commandant of the 'Reserve Police' is equivalent in rank of the Deputy Superintendent of Police (Civil).

38. Learned counsel while further drawing our attention towards the provisions of Section 148 of the '1963 Act' has submitted that even a member of Principal Police Service can be transferred to State

Reserve Police and vice versa also. In fact, the 5th Respondent has worked for ten years as Superintendent of Police in Principal Police Service. According to learned counsel, the posts of two services are inter-transferable. In order to negate the plea that the Assistant Commandants of 'Reserve Police' lack in experience, learned counsel drew our attention towards the provisions of Section 152 of the '1963 Act' according to which an officer of the 'Reserve Police' can be deemed to be an officer in-charge of Police Station for the purposes of Chapter IX of the Code of Criminal Procedure, 1898.

39. Shri Patil further submitted that the constitution of A.R.Infant Committee cannot be condemned by the applicant as mere constitution of the said committee does not affect their service conditions. Even otherwise, order of constitution of committee has already attained finality as the applicants submitted to the jurisdiction of the said committee and participated in the whole process and having participated in the said process, they cannot be allowed to lay any challenge to constitution of the said committee. If, according to the applicants, it was not a broad based committee in consonance with the directions issued by the Hon'ble High Court, they should have immediately filed an application for clarification or a contempt petition before the Hon'ble High Court.

40. Shri Patil further submitted that this Tribunal cannot go into the validity of the report submitted by an Expert Committee and it is beyond the scope and power of judicial review.

41. Shri Patil still further submitted that by issuance of order dated 23.01.2016 declaring the Assistant Commandant of 'Reserve Police' as equivalent to Principal Police, it is only the zone of consideration which has been enhanced, it nowhere denies a right to applicants to get themselves considered for promotion. Learned Counsel while relying upon a Supreme Court judgment in *Union of India and others Vs. N.Y.Apte* - 1998 (6) SCC 741, submitted that the chance of promotion is not a right, nor a condition of service.

42. Expanding his arguments further, Shri Patil submitted that by making declaration of equivalence of two services, the chances of applicants for getting promotion to Indian Police Service have receded as the zone of consideration has been enhanced, the action cannot be termed to be in violation of the fundamental rights of the applicants. In support of his argument, learned counsel relied upon a judgment of the Hon'ble Supreme Court in ***Union of India vs Suresh Kumar Nayak*** 2010 (15) SCC 10. Shri Patil further submitted that the committee constituted by the State Government was actually a 'broad based expert committee', because it had three members from Indian Police

Service, having rich experience over the subject. Even one of the members was a promotee Indian Police Service officer.

43. Shri P.A. Kulkarni, learned amicus curiae, submitted that the Hon'ble High Court while setting aside the order dated 21.06.2019 passed by this Tribunal in OA No. 170/00355-00359/2016 and connected matters has remitted back the matter with a direction to go in detail in respect of the impugned order dated 23.01.2016 and decide the matter on merits after considering all contentions of the parties and, therefore, the adjudication should now take place as per the said directions issued by the Hon'ble High Court. While drawing our attention towards the questions postulated by the Hon'ble High Court in paragraph 18 of the judgment in Writ Petition No 3269/2012, Shri Kulkarni submitted that while answering question No. 4 in paragraph 68 of the judgment, the Hon'ble High Court has asserted that the administrative authorities are in the best position to decide the equivalence of two posts in the services because they have the requisite experience in administration as they are aware of the nature of responsibility, duties attached to the post and functions to be discharged by them. Argument of learned counsel is that this Tribunal cannot embark upon the exercise and, therefore, it cannot go into the recommendations of the A.R. Infant Committee report. Learned counsel further submitted that the power of judicial review can be

exercised to the extent that this Tribunal can go into the validity of the decision-making process and if the said process is found to be flawed, the consequent orders can be quashed. Shri Kulkarni further submitted that this Tribunal should find out as to whether the Government while issuing the order dated 23.01.2016 has applied its mind independently while accepting the A.R. Infant Committee report and then to hold that as to whether the said order can be sustained or not. Shri Kulkarni still further submitted that this Tribunal cannot go into the decision of the Government whereby the 'broad based expert committee' was constituted pursuant to the Hon'ble High Court's order. Even the order vide which the broad based committee was constituted is not under challenge in any of the Original Applications and, therefore, there is no reason to go into the question as to whether the said committee was broad based committee or not.

44. We have thoughtfully considered the rival contentions of learned counsels for the parties and the arguments of learned Amicus Curiae as well.

45. The vexed question of declaration of equivalence between the Principal Police Service of a State, a member of which normally holds charge of a sub-division of a district for the purpose of police administration and any other duly constituted police service functioning

in a State has been confronting the Courts and this Tribunal for a long time.

46. The All India Services Act, 1951 was enacted by the Parliament to regulate the recruitment and the conditions of service of person appointed to All India Services. In exercise of the powers conferred by Section 3 of the said Act, the Central Government after consultation with Government of the States concerned has made the Indian Police Service (Recruitment) Rules, 1954. As per Rule 4 of the said Rules, the method of appointment to the Indian Police Service is by way of a competitive examination or by promotion of substantive members of a State Police Service. Rule 9 (1) of the Rules further makes a provision that the Central Government may on the recommendation of the State Government concerned and in consultation with the Union Public Service Commission, recruit the persons to Indian Police Service by promotion from amongst the substantive members of a State Police Service in accordance with such Regulations as the Central Government may, after consultation with the State Government and the Union Public Service Commission, from time to time, make.

47. While deriving the powers from Sub-rule 1 of Rule 9 of the '1954 Rules', the Central Government, in consultation with the State Governments and the Union Public Service Commission, promulgated the Indian Police Service (Appointment by Promotion) Regulations,

1955. Regulation 2 (1) (j) of the said Regulations defines the 'State Police Service' as under:-

"2. Definitions - (1) In these regulations unless the context otherwise requires,-

.....
.....
.....

(j) 'State Police Service' means,

(i) for the purpose of filling up the vacancies in the Indian Police Service Cadre of the Arunachal Pradesh-Goa-Mizoram-Union Territories under rule 9 of the Recruitment Rules, any of the following services, namely:-

- (a) the Delhi and Andaman and Nicobar Islands Police Service;
- (b) the Goa Police Service;
- (c) the Pondicherry Police Service;
- (d) the Mizoram Police Service;
- (e) the Arunachal Pradesh Police Service;

(ii) In all other cases, the principal police service of a State, a member of which normally holds charge of a sub-division of a district for purposes of police administration and includes any other duly constituted police service functioning in a State which is declared by the State Government to be equivalent thereto;

.....
.....
.....

48. It requires to be mentioned here that exactly the same definition has been assigned to 'State Police Service' in the '1954 Rules'.

49. In the State of Karnataka, right from its formation, it was only the members of the Principal Police Service, which is also called as the

Civil Police in the State, were being considered for the purposes of promotion to Indian Police Service. It is only in the year 1991 when the Government came out with an order dated 23.12.1991 on the basis of a letter issued by the Director General and Inspector General of Police, Karnataka, declaring the posts of Deputy Superintendent of Police (Wireless), Assistant Commandant (Karnataka State Reserve Police) and Deputy Superintendent of Police (Armed Constabulary) as equivalent to the post of Deputy Superintendent of Police (Civil) for the purposes of promotion to Indian Police Service. Not so happy with the consequences produced by the declaration of equivalence, the State Government on the basis of a letter dated 08.02.1996 issued by the Director General and Inspector General of Police, came out with an order dated 02.03.1996 whereby a one man committee of R. Ramalingam, IPS (retired) for police reforms was constituted. The said committee, on a thorough examination of the entire matter, taking into consideration all the relevant aspects, examined the case of all auxiliary police forces in the State of Karnataka and recommended that the order of equivalence dated 23.12.1991 be rescinded. Following the recommendations made by R. Ramalingam committee, the State Government issued an order dated 18.07.1996 and rescinded the equivalence order dated 23.12.1991.

50. Thereafter once again, on receipt of representations from Assistant Commandants of Karnataka State Reserve Police, the State Government vide order dated 04.01.2008 appointed one more committee headed by P.S. Ramanujam, IPS with three other members to look into the promotional avenues for directly recruited Assistant Commandants of the Karnataka State Reserve Police.

51. The said committee headed by P.S. Ramanujam submitted its report on 26.06.2000 making therein the recommendations that all police officers irrespective of their discipline should be considered equivalent for the purposes of their consideration for promotion to Indian Police Service in terms of '1955 Regulations'. For a period of about 3 years nothing happened pursuant to said report. On 04.08.2003, the Director General and Inspector General of Police requested the Additional Chief Secretary and Principal Secretary to Government of Karnataka to consider the said report and issue appropriate orders. Still no action was taken by the State Government for about a period of another 6 years. On 03.01.2009 Director General and Inspector General addressed a letter to the Chief Secretary bringing to his notice the report submitted by PS. Ramanujam committee and he expressed his opinion that the post of Deputy Superintendent of Police (Wireless), Deputy Superintendent of Police (Armed), and the Assistant Commandant of Karnataka State Reserve

Police may be declared as equivalent to the Deputy Superintendent of Police (Civil) as it existed in the year 1991. Pursuant to said letter, the Chief Secretary wrote a letter dated 03.05.2009 requesting the Director General and Inspector General of Police to furnish information as mentioned in the said letter. Pursuant thereto, the Director General and Inspector General of Police gave a reply on 11.05.2009 which is reproduced here as under:-

'Vide this office letter No.CBI/130/2008-09, dt. 3.1.2009, a proposal was sent to Govt., recommending appointment on promotion, officers of auxiliary service of Police Department to the IPS. This was based on the recommendation of Dr. P. S. Ramanjunam made during the year 2000. subsequent to this report, a number of representations were received from various officers requesting to review the recommendations. The recommendations have been reviewed. It is seen that an earlier committee appointed by the Govt., on the same subject, has not recommended inclusion of Auxiliary services to IPS. The available material in the subject has also been studied. On the grounds of available materials and experience, we are not in favour of promotion of Auxiliary services to IPS.....'

52. The aforesaid report dated 11.05.2009 submitted by the Director General and Inspector General of Police, was placed before a committee consisting of Additional Chief Secretary to Government, Additional Chief Secretary to Government (Home Department), Director General and Inspector General of Police and the Secretary to Government, Department of Personnel and Administrative Reforms on 20.05.2009. After examining the said report, the committee noted that the training imparted to the Deputy Superintendent of Police (Civil) and

their functions are quite different from the ones given to the officers of the Auxiliary Police Service. After detailed deliberations, it was decided that there was no need to consider the 'Group A' officers of the Karnataka State Reserve Police, Wireless, Armed Police and Finger Print Bureau for promotion to Indian Police Service along with the officers of the Principal Police Service, viz. Deputy Superintendent of Police (Civil).

53. On 26.05.2010, His Excellency the Governor of Karnataka, on receipt of a representation of one K.C. Venkatarao Mane, Deputy Superintendent of Police (Armed) directed the State Government to convert his appointment by way of promotion as Deputy Superintendent of Police (Civil) from the existing Deputy Superintendent of Police (Armed) w.e.f. the date of his promotion i.e. 05.11.1997 as a special case considering his outstanding performance and also to consider his name for promotion to Indian Police Service. Thereafter, the Government became alive about the P.S. Ramanujam committee report. However, instead of relying upon the reasons for declaration of equivalence as stated in the said report, the State Government quoted the reason that there is acute shortage of police personnel in the Principal Police Service both in IPS and non-IPS cadres and also there is acute shortage of eligible state police officers for considering promotions to Indian Police Service. Therefore, the

State Government examined the need for considering officers of other units of police force viz. Auxiliary Police units for promotion to Indian Police Service during the year 2009. After detailed deliberation, it was considered necessary to declare eligible officers of such Auxiliary Police units with distinguished service to be equivalent to the Principal Police Service of the State and this is how the order dated 01.10.2010 came to be issued by the State Government in exercise of power conferred under Regulation 2 (1) (j) of the '1955 Regulations'. A declaration was made to the effect that the officers not below the grade of Deputy Superintendent of Police in other police services constituted by the State Government viz. Police (Wireless), Karnataka State Reserve Police and Karnataka Armed Police are equivalent to that of Deputy Superintendent of Police (Civil) of the Principal Police Service for the purposes of promotion to Indian Police Service for the vacancies available in the year 2009 only.

54. The members of Principal Police Service, aggrieved by the aforesaid Government Order dated 01.10.2010, preferred Original Application No. 471/2010 before this Tribunal. Even the members of the Auxiliary Police Service also filed OA 443/2010, 41/2011 and 54/2011 challenging therein some of the conditions of the said Government Order.

55. During pendency of the aforesaid Original Applications before this Tribunal, the Director General and Inspector General of Police and the Department of Home Affairs of the State Government came out with a report which became the basis of issuance of another order by the Government on 21.07.2011 rescinding therein the Government order dated 01.10.2010.

56. Aggrieved by the said order dated 21.07.2011, the members of the Auxiliary Police units preferred one more Original Application. All the Original Applications were clubbed and heard together and were disposed of by way of a common order dated 07.12.2011 and a declaration was issued to the following effect:

'(a) Because of the operation of Section 3 of the Karnataka Police Act, there exists only one single police force from 15-5-1975 onwards and the equivalence required under Regulation Rule 2 now stands satisfied.

(b) All the officers of the Karnataka Police, in all streams of policing of the rank of Dy.SP and above with a minimum service of eight years as on the date pertinent to the batch of 2009 and less than 54 years of age at that point of time are now eligible to be considered for promotion into Indian Police Service.

(c) Since the resolution of the dispute was time consuming the time taken for such consideration shall not be considered as defeating the cause of anyone by either UPSC or any other authority under the government. All such persons who are eligible to be so considered shall be considered for the batch of 2009 and selection must be done in accordance with Rules in force.'

57. Aggrieved by the aforesaid common order dated 07.12.2011 passed by this Tribunal, the officers of the Principal Police Service filed

Writ Petition No. 3269/2012 before the Hon'ble High Court of Karnataka which was allowed on 25.04.2013 and the following directions were issued therein:

- '(i) Writ Petitions are allowed.*
- (ii) The impugned order passed by the Government dated 1.10.2010 is hereby set aside.*
- (iii) Consequently, the Government Order dated 21.7.2011 becomes infructuous.*
- (iv) We hereby direct the authorities to constitute a broad based expert committee to resolve these disputes at the earliest.*
- (v) After constitution of such committee, the committee shall give sufficient opportunity to the varying fractions and resolve the dispute and submit their report to the Government within a period of 6 months from the date of receipt of a copy of this order.*
- (vi) On submission of the said report, the Government shall take decision regarding equivalence within 2 months therefrom.*
- (vii) It is made clear that Government decision should contain the reasons either for granting equivalence or refusing to grant equivalence so that the aggrieved person could agitate his rights before this Court.*
- (viii) It is made clear that authorities shall proceed to consider the case of police officers of the Principal State Police Force whose name already finds a place in the list of persons to be considered for promotion and it shall not be postponed on the pretext of the constitution of the committee or submission of the report or the decision of the equivalence to be taken by the Government.'*

58. Pursuant to aforesaid directions issued by the Hon'ble High Court, the Government issued the order dated 23.01.2016 declaring the Assistant Commandants of the Karnataka Reserve Police as equivalent to Civil Police Services for the purposes of promotion to Indian Police Service and the validity of the said order was upheld by this Tribunal vide order dated 21.06.2019. The order dated 21.06.2019 became the subject matter of challenge in Writ Petition No. 8868/2020 and Writ Petition No. 8791/2020 before the Hon'ble High Court of Karnataka at Bangalore and vide order dated 03.02.2021 these matters have been remitted back to this Tribunal and this is how now we are seized of the matter.

59. The Hon'ble High Court vide its earlier judgment and order dated 25.04.2013 passed in Writ Petition No. 3269/2012, after noticing the fact that twice the equivalence was granted and twice it was withdrawn and the Government had the reports of two expert bodies in its hand still the dispute was not resolved for a period of more than two decades, considered it appropriate to direct the authorities to constitute an expert body and give an opportunity to varying factions to put forth their point of view and then look into the material which is collected over two decades and decide it one way or the other. It was also observed that on receipt of report, the Government shall apply its mind independently and decide whether an equivalence is to be granted or

not and, in either way, they should assign reasons in their order so that the aggrieved persons can approach the Court and the Court is in a better position to go into the issues.

60. In view of the observations made and directions issued by the Hon'ble High Court, the first and foremost question which falls for consideration of this Tribunal is as to whether the decision-making process in determining the equivalence of principal police service of the State of Karnataka and the State Reserve Police Force constituted under Section 145 of the '1963 Act' and the consequent Government Order dated 23.01.2016 is in consonance with the said observations and the directions of the Hon'ble High Court.

61. The record in original (as produced by the respondents) reveals that pursuant to the judgment and order dated 25.04.2013 passed by the Hon'ble High Court of Karnataka in Writ Petition No. 3269/2012, the matter was dealt with on 31.07.2013 and it was decided to seek the opinion of the Home Department and DG&IGP regarding the constitution of 'broad based expert committee' and who all should be the members of that committee; and an opinion in this regard was sought within a period of 10 days. The said note was approved by the Chief Secretary and the Political Executive on 02.08.2013. Pursuant thereto, the Director General and Inspector General of Police writes a letter dated 27.09.2013 making therein a recommendation of the

names of Shri A.R. Infant, DGP (Retd), Shri M. Lakshman, IGP (Retd) and Shri Ashit Mohan Prasad, the then ADGP, Intelligence to constitute the 'broad based expert committee'.

62. On receipt of the aforesaid recommendation, the matter was again dealt with by the Government and in a note recorded on 29.10.2013 it was stated that no reasons have been assigned by the Director General and Inspector General of Police for recommending the names of these 3 officers as members of the 'broad based expert committee'. However, the A.R. Infant Committee as proposed by Director General and Inspector General of Police was still approved by the Chief Secretary on 09.11.2013 and by the Political Executive on 14.11.2013 without even exploring the field of expertise of the officers. The A.R. Infant committee submitted its report dated 25.07.2015 to State Government on 27.07.2015.

63. A perusal of the said report divulges that after examining the representations received from officers of civil police, other wings of auxiliary police service like KSRP, Wireless, District Armed Reserve, Finger Print Bureau and Deputy Superintendent of Police, CID and the recommendations made by the earlier Committees i.e. Ramalingam Committee and Ramanujam Committee and also the situation prevailing in the neighbouring States, made certain observations which

were noticed by the High Power Committee in its meeting held on 05.10.2015 and reproduced here as under:-

- i) *The directly recruited Civil DSPs perform the duties such as maintenance of law and order, prevention and investigation of crime and traffic management, court attendance, handling of unforeseen situations. While the work of Auxiliary Police officers is to provide necessary support to the Civil Police officers in maintaining peace, law and order, unlike Civil Police officers the Auxiliary Police officers are not trained in preventing crime, crime investigation and detection, as well as maintenance of law and order.*
- ii) *Officers of Finger Print Bureau who perform a specific function are neither involved in mainstream investigation nor are they well versed in nuances of law. They are hardly ever called upon to perform any law and order duties nor are they connected with the investigation of crime.*
- iii) *The officers of DAR/CAR are not connected with the prevention and detection of crime. These officers clearly are deficient in the area of maintenance of law and order. Similar is the situation with officers of KSRP.*
- iv) *Dy.SPs (Detectives), CID: although they are well versed in investigation and detection of crime, they are clearly lacking in maintenance of law and order.*
- v) *The common competitive examination conducted by the KPSC for recruiting Class-I officers including Civil Dy.SPs and direct Assistant Commandants of KSRP is of a higher standard than the ones held for the selection of PSIs and RSIs.*
- vi) *The Auxiliary Police service officers are not conversant with the functioning of the police station, circle or sub division. The Auxiliary Police service officers have not been*

attached to any of these formations in the police department.

- vii) *A thorough knowledge of police functions at the police station, circle and a sub division will be an essential ingredient for a superior police officer (Deputy Superintendent of Police or equivalent and above).*
- viii) *Although Assistant Commandants of KSRP may not have held independent charge of a police station, circle or a sub-division, over the years these officers develop expertise in crowd control, law and order duties, VIP security etc. Expressing agreement with Dr. Ramanujam committee, the present Expert Committee is of the view that directly recruited Commandants of KSRP should be considered and recommended for selection to the IPS as an exception.*

64. Taking the aforesaid factors into consideration, the 'broad based expert committee' made the following recommendations to the Government:

1. *Equivalence may be established between civil Dy.S.Ps and directly recruited Asst. Commandants. Necessary orders may be issued by the Government accordingly. They may be considered for promotion to the IPS against the promotion quota based on merit and APR ratings in line with rule 2[1] (j) (ii) of IPS Regulation (Appointment of Promotion) 1955.*
2. *The direct recruitment of Asst. Commandants in KSRP may be discontinued forthwith. The direct recruitment vacancies of Asst. Commandants in KSRP (25% as per the current cadre and Recruitment Rules) may be merged with the vacancies of directly recruited Dy.S.Ps (Civil).*
3. *Officers at Class 1 level [such as those from auxiliary services like Wireless, Finger Print Bureau, KSRP, CAR/DAR, Detectives in CID etc] other than Civil DSPs should not be*

considered for direct recruitment by KPSC through a common combined competitive examination.

4. *Promotee officers of the Auxiliary services should not be considered for induction into the IPS, since they have not gone through the common combined competitive examination conducted by the KPSC for recruiting Class 1 officers.*
5. *Promotional avenues may be found for the promotee officers of KSRP, DAR/CAR, Wireless, Finger Print Bureau, within the respective wings of the police.*
6. *Directly recruited Asst Commandants of KSRP should be compulsorily put through a training programme during which they would hold independent charge of a police station and a circle for three months each and a sub division for six months before they are inducted into the IPS.*
7. *Deputation of Reserve officers as security cum vigilance officers in State Public Sector undertakings may be seriously considered.*
8. *Officers of Auxiliary services including KSRP, CAR/DAR, Wireless, Finger Print Bureau etc may be deputed for courses and training programmes both within and outside the state as frequently as possible.*
9. *The present Dy.S.Ps (Detectives) may be considered for absorption in the civil police. Inter se seniority should be fixed in such a manner that the detective officers in CID will be placed just below the civil PSIs recruited in that particular year.*
10. *Since the time taken by directly recruited sub inspectors to attain the rank of DSP, is very long, it is suggested that provisions may be made for quicker promotion for directly recruited PSIs.*

11. *Half of the posts of Commandants in KSRP/India Reserve Battalions may be encadred. In other words they may be manned by IPS officers. The remaining posts may be filled up by officers from the Civil police or by posting eligible officers from KSRP on a fifty : fifty ratio.*

65. Though the aforesaid 'broad based expert committee' was alive to the fact that the Auxiliary Police officers are not trained in preventing crime, crime investigation and detection as well as maintenance of law and order and they are deficient in the area of maintenance of law and order as they are not conversant with the functioning of the police station, circle or sub-division but still a recommendation was made for declaration of equivalence between Deputy Superintendent of Police (Civil) and the directly recruited Assistant Commandants in the matter of promotions of State Police Service officers to Indian Police Service in terms of Rule 2 (i)(j)(ii) of the '1955 Regulations'.

66. The glaring fact which is required to be noticed here is that the 'broad based expert committee' was conscious of the fact that the Assistant Commandants of KSRP have not held the independent charge of police station, circle or a sub-division, still while mentioning that over the years, these officers develop expertise in crowd control, law and order duties, VIP security etc and, therefore, while expressing agreement with Ramanujam Committee report, recommended that

directly recruited Assistant Commandants of KSRP should be considered for selection to Indian Police Service as an exception.

67. Whether such an exception can be carved out?

68. It appears that while making the aforesaid recommendations while expressing agreement with Ramanujam Committee report, the 'broad based expert committee' was totally unmindful about the fact that on the basis of recommendations made by Ramanujam Committee, the Government had earlier issued an equivalence order on 01.10.2010 which became the subject matter of litigation and the Hon'ble High Court in paragraph 66 of its judgment observed as under with regard to the recommendations of Ramanujam committee as well as the order dated 01.10.2010 issued pursuant thereto:

'66. Therefore, as is clear from the order, firstly the equivalence is declared only for the year 2009. Secondly, the reason for declaration of equivalence is there are not available sufficient number of qualified officers for being considered for IPS promotion quota. Therefore, before declaring, the Government did not take into consideration the nature of duties of a post, the responsibilities and powers exercised by the officer holding a post; the extent of territorial or other charge held or responsibilities discharged; the minimum qualifications, if any, prescribed for recruitment to the post; and the salary of the post. The non- availability of sufficient number of officers in the Principal Police Service for the purpose of promotion to IPS cannot be a ground to declare the equivalence. There is total non- application of mind to the nature and responsibilities of the functions and duties attached to the said post. They have taken into consideration totally extraneous and irrelevant factors in

determining the equivalence. In fact the recommendation made by Dr. P.S. Ramanujam committee had been rejected by the committee constituted by the Government on the ground that the training and the nature of duties performed are not the same. Strangely, the equivalence is given to a particular year which is totally impermissible in law. If the nature of functions, responsibilities discharged, the experience gained or the nature of training undergone are one and the same in respect of these two cadres and if the equivalence is to be given, it is to be given for ever. It cannot be for one year. In that view of the matter, the order dated 1.10.2010 as rightly held by the Tribunal is contrary to law, illegal and requires to be set aside. Realising this, the Government wanted to retrace its steps. Therefore, they issued the Government Order dated 21.7.2011 and the preamble to the order clearly states the reasons for such a step. The same is in accordance with law. However, if the first order is to be set aside, the necessity for the second order would not arise and therefore the question of going into the legality of the second order in the facts of this case would not arise. If the first order goes, the second order becomes superfluous and it has no legs to stand. In fact, the Tribunal did declare in the body of its order that both these orders cannot be sustained and liable to be set aside.'

69. It requires to be noticed here that during pendency of the litigation, the Government itself retracted from the order dated 01.10.2010 and came out with another order dated 21.07.2011 and the stand of the Government was approved by the Hon'ble High Court. In this view of the matter, there was no occasion for the A.R. Infant Committee to make a recommendation for declaration of equivalence of the directly recruited Assistant Commandants of KSRP with the Deputy Superintendent of Police (Civil) while expressing agreement with Ramanujam Committee report.

70. In our considered view, it was an irrelevant factor which ought not to have been taken into consideration while making such a recommendation.

71. In our opinion, when an expert committee undertakes such an exercise for making recommendations to declare two services as equivalent, the statutory duties and functions of the members in both the services become one of the major factors which apparently have not been taken into consideration by the A.R. Infant Committee.

72. History of the modern Indian Police can be traced back to 1861 when the Indian Police Act, 1861 was promulgated. The '1861 Act' was based on the draft bill submitted by Commission of 1860. The objective before the Commission of 1860 was to set up civil constabulary primarily to enable reduction of the strength of "native troops" of army to the minimum required for the occupation of the country. The role envisaged by the British for the civil constabulary was to maintain internal tranquillity, protect life and property, prevent and detect the crime, to furnish guards for public properties and public installations like jails, treasuries etc. and to perform a variety of civil duties.

73. Section 23 of the '1861 Act' makes a provision that it shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the

commission of offences and public nuisances; to detect and bring offenders to justice and to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient ground exists. It has further been stipulated that it shall be lawful for every police officer to enter and inspect any drinking shop, gaming house or other place of resort of loose and disorderly characters without a warrant.

74. The '1861 Act' has been repealed by the Karnataka Police Act, 1963 by virtue of Section 178 read with Schedule 5 of the said Act. While enacting the '1963 Act', the State Legislature introduced Section 65 defining the duties of a police officer and the said provision is almost pari materia to Section 23 of the '1861 Act'. Provisions of Section 65 are reproduced here as under:

'65. Duties of a Police Officer.—It shall be the duty of every Police Officer,—

(a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superior;

(b) to the best of his ability to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences;

(c) to lay such information and to take such other steps, consistent with law and with the orders of his superiors, as shall be best calculated to bring offenders to justice;

(d) to prevent the commission of offences;

- (da) to prevent the breach of the public peace;
- (e) to prevent to the best of his ability the commission of public nuisances;
- (f) to apprehend without unreasonable delay all persons whom he is legally authorised to apprehend and for whose apprehension there is sufficient reason;
- (g) to aid another Police Officer when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;
- (h) to discharge such duties as are imposed upon him by any law for the time being in force.
- (i) to communicate without delay to the appropriate officer of a local authority any information which he receives, of the design to commit or of the commission of any offence under the relevant law constituting such local authority or under any rule, bye-law or regulation made under such law;
- (j) to assist any officer or servant of a local authority or any person to whom the powers of such officer or servant has been lawfully delegated, reasonably demanding his aid for the lawful exercise of any power vesting in such officer or servant of the local authority, or such person, under the relevant law constituting such local authority or under any rule, bye-law or regulation made under such law.'

75. Apart from the above, so many other duties have also been casted upon a police officer by virtue of the provisions of Sections 66 to 77 of the '1963 Act'. Not only this, a police officer is also required to perform the duties under Chapters V, VII, VIII, X, XI and XII of the Code of Criminal Procedure and in various special and local laws relating to investigation of cognizable offences. The duties and functions of Sub-Divisional Police Officers have further been elaborated in para 160 to 197 of the Karnataka Police Manual.

Unfortunately, all these relevant factors with regard to duties casted upon a police officer in the principal police service have not been taken into consideration by the A.R. Infant Committee.

76. The A.R. Infant Committee remained oblivious about the fact that directly recruited Assistant Commandants in KSRP are assigned with the different kind of duties which are enumerated in Chapter X of the '1963 Act' which specifically deals with the State Reserve Police Force. Section 151 as contained in the said Chapter of the '1963 Act' makes a provision that every Reserve Police Officer shall be deemed to be always on duty in the State of Karnataka and if the Government or the Inspector General of Police so directs, he can be employed on "active duty" wherever the services are required. The term "active duty" has been defined in Section 144 of the '1963 Act' which is reproduced here as under:

'(a) "Active Duty" means,—

- (i) the duty to investigate offences involving a breach of peace or danger to life or property and to search for and apprehend persons concerned in such offences or who are so desperate and dangerous as to render their being at large hazardous to the community;*
- (ii) the duty to take all adequate measures for the extinguishing of fires or to prevent damage to person or property on the occasion of such occurrences as fires, floods, earthquakes, enemy action or riots and to restore peace and preserve order on such occasions;*

(iii) such other duty as may be specified to be active duty by the Government or the Inspector-General in a direction issued under section 151;'

77. Apart from the above, para 1684 of Karnataka Police Manual also enumerates certain duties of the Assistant Commandant in KSRP, which are also reproduced here as under for ready reference:-

'1684. Assistant Commandant:-

The Asst. Commandant will be incharge of two or more companies as detailed by the Commandant.

- (1) The Asst. Commandant as the immediate gazetted officer is generally responsible for all the matters affecting the companies under his control and he is directly responsible for their efficiency, discipline, training, morale and welfare.*
- 2) He will inspect each company once during the year.*
- 3) He will audit accounts of each company once in three months, and he will also check the cash balance and cash book by surprise.*
- 4) He will hold orderly room atleast on two days in a week.*
- 5) He will scrutinise the training programmes drawn by the companies each week and ensure that they are strictly according to the training directives issued by the Commandant. He will also see that the training of the men is satisfactory and that the junior officers and NCOs are proficient in their work.*
- 6) He is responsible for conducting the annual range practices and arranging extra training for those who may not qualify.*
- 7) He will inspect the arms and ammunition of the companies in his charge at least once in three months.*
- 8) He will inspect Government property twice a year and send half-yearly returns to the Commandants.*

9) *He will inspect the family quarters on charge of companies with him once during the year at the time of annual inspection.*

10) *He will inspect the cook houses of each company by surprise at least once a month and ensure that the messing is satisfactory and economical and that the men have no complaints.*

11) *He will exercise close personal supervision over the companies to ensure that their work is satisfactory.'*

78. Whether the duties and functions casted upon an Assistant Commandant of the Reserve Police in terms of Section 151 read with Section 144 of the '1963 Act' and para 1684 of the Karnataka Police Manual can be equated with the duties and functions of an officer of the principal police of the State as contained in Sections 65 to 77 of the said Act as well as the duties and functions enumerated in Chapters V, VII, VIII, X, XI and XII of the Code of Criminal Procedure and para 160 to 197 of the Karnataka Police Manual can be equated, in our considered view, ought to have been a major consideration before the A.R. Infant Committee. Unfortunately, the exercise to that effect, in any case, has not taken place.

79. The exercise undertaken by the A.R. Infant Committee has also gone contrary to the principles laid down by a Division Bench of the Hon'ble High Court of Kerala in **T. Chandran and Others Vs. Union of India and Others** 2004 (5) SLR 674 wherein exactly an identical

question was considered. The relevant observations from the report are reproduced here as under:

'The Committee also found that officers of the General Executive who are appointed by promotion to Indian Police Service need not undergo the basic training course at Police Training College as they have successfully completed the same training at the threshold of their career. At the same time the officers of Armed Reserve and Armed Police Battalion who are appointed by promotions to Indian Police Service have to undergo practical training in the field as they do not have the basic qualification envisaged for appointment to Indian Police Service. The Committee also found that by training and experience a civil police officer is groomed to deal with the entire range of police duties and functions, whereas, the training of other cadres like Armed Police Battalions, Armed Reserves, etc. is necessarily limited to the basic scope of their particular functions and duties. For example, the training of civil police officers lays special emphasis on the prevention, investigation, and detection of crimes. Regulation of Traffic, dealing with law and order issues, maintenance of public peace, tranquillity and communal harmony, VIPM security duties, collection of intelligence, police-public contacts and, in general, the entire gamut of the functions and duties of a local police officer who deals with the public and society at the cutting-edge level. By way of experience also, right from the beginning, a civil police officer steadily gains experience in all the above functions and duties and is ultimately fit to discharge such duties and responsibilities as an Indian Police Service Officer is expected to do. However, in the case of Armed Police and Reserve Officers, the emphasis of training is on the functions and duties of the Armed Police, including guards, escorts of prisoners and treasure, providing a striking force to supplement the local police and dealing with combat situations. The gamut of their functions and experience is mostly within the Armed Police Camps and Armed Reserve Camps and their public dealings are extremely limited in scope. According to the Committee, if an Armed Reserve or Armed Police officer is to be inducted into the Indian Police Service, he would have to be

trained in myriad relatively different functions and duties and even if he does absorb such training effectively, he will not have the benefit of the experience gained by the civil police officer over a very long period of time. According to the Committee the emphasis of the training given to the Armed Police and Armed Reserve Officers is significantly different from the emphasis bestowed on the training given to civil police officers. Hence after careful consideration of all the aspects of the matter including the prevailing practice in neighbouring States and after hearing both parties, the Committee unanimously recommended that the Government orders declaring the post of Assistant Commandant in Armed Reserve and Armed Police Battalions as equivalent to the post of Deputy Superintendent of Police in the Principal Police Service of the State for the purpose of Regn. 4 of the I.P.S. (Appointment by Promotion) Regulations should be rescinded. After carefully examining the report of the Expert Committee the Government accepted the findings and the recommendation of the Committee and ordered that the equation of the Armed Police and the Armed Reserve with the Principal Police Service of the State and also the Assistant Commandant with the Deputy Superintendent of Police for the purpose of promotion to the Indian Police Service be dispensed with. In our view, the above mentioned reasons stated by the Expert Committee and accepted by the Government for reviewing and rescinding the earlier orders and for dispensing with the equation of the Armed Police and Armed Reserve with the Principal Police Service of the State and the Assistant Commandants with the Deputy Superintendent of Police for promotion to the Indian Police Service, are relevant, valid and sufficient reasons. Hence we are of the view that G.O.(MS) No.534/2000/GAD dated 25.9.2000 was issued by the Government for valid and sufficient reasons.'

80. In view of the above discussions, we have no hesitation in accepting the argument of Shri P.S. Rajagopal, learned Senior Advocate, that the irrelevant factors have been taken into

consideration and the relevant factors have been ignored by the A.R. Infant Committee and, therefore, the order of equivalence dated 23.01.2016 cannot be premised on the said recommendations.

81. Looking at the matter from another angle; on perusal of records produced by the respondents, we find that the A.R. Infant Committee report was considered on 05.10.2015 by a High Power Committee comprising of Chief Secretary to Government, Additional Chief Secretary to Government, DG & IGP (HoPF) and the Deputy Secretary to Government, DPAR (Services).

82. After having detailed deliberations over the report submitted by A.R. Infant committee, the said High Power Committee in its meeting held on 05.10.2015 made the following observations:

'Civil Police Service officers deal with day to day functioning of the Police Station, maintenance of law and order and prevention and detection of crime on day to day basis thus making them more mature to grasp the situation and anticipate any untoward situation, which is not possible from the Auxiliary Police officers.

Declaring only the directly recruited Assistant Commandant of KSRP as equivalent to DySP (Civil), ignoring promotees (i.e., Assistant Commandant who have risen from ranks of RSI) who may be even senior to them in the gradation list, may not be legally tenable. Once an officer is an Asst. Commandant, it is immaterial whether he is direct recruit or promotee. They have to be treated equally as per gradation list. It may be administratively not possible to restrict the equivalence only to the directly recruited officers and exclude those promoted from the rank of PSIs/RSIs as long as they fulfil other condition of eight years of service in the rank of DySP and upper age limit of 56 years. Distinguishing promotee and directly recruited officers is not tenable in law.

Neither the Direct Recruitee nor the Promotee KSRP Assistant Commandants nor the Auxiliary Service Officers perform the duties such as maintenance of law and order, prevention and investigation of crime and traffic management, court attendance, handling of unforeseen situations as are being performed by Civil Police Service officers. They are not trained in preventing crime, crime investigation and detection, as well as maintenance of law and order. Officers of Finger Print Bureau are hardly ever called upon to perform any law and order duties nor are they connected with the investigation of crime. Officers of DAR/CAR, are not connected with the prevention and detection of crime, they do not handle maintenance of law and order. Dy.SPs (Detectives), CID, although they are well versed in investigation and detection of crime, they do not handle maintenance of law and order. Auxiliary Police service officers are not conversant with the functioning of the police station, circle or sub division and also they have not been attached to any of these formations in the Police Department for regular Police work. A thorough knowledge of police functions at the police station, circle and a sub division will be an essential ingredient for a Superior Police officer (Deputy Superintendent of Police or equivalent and above).'

83. The aforesaid observations recorded by the High Power Committee in our view, have some semblance to statutory duties and functions of the police officers in the principal police.

84. After having the detailed deliberations, it was finally resolved by the High Power Committee in principle to make a recommendation to not to declare the equivalence between the Principal Police Service and any other Auxiliary Police Service. The note recorded in the meeting of High Power Committee on 05.10.2015 was approved by the Chief Secretary to Government of Karnataka on 07.11.2015 and the matter was placed before the Political Executive on the same very day.

The Political Executive, without recording any reason referred back the matter to High Power Committee to re-examine the issue in the context of identifying the impediments in accepting the report of Expert Committee and take a suitable decision in this regard. The note recorded in vernacular is reproduced here as under:

‘ತಜ್ಞರ ಸಮಿತಿ (Expert Committee) ಮಾಡಿರುವ ಶಿಫಾರಿಸುಗಳನ್ನು ಒಮ್ಮೆ ಅನುಷ್ಠಾನಗೊಳಿಸಲು ಇರುವ ತೊಡಕಗಳನ್ನು ನಿರ್ವಾರಿಸುವ ಬಗ್ಗೆ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿಯವರ ಅಧ್ಯಕ್ಷತೆಯಲ್ಲಿರುವ ಸಮಿತಿಯು ಪುನರ್ ಪರಿಶೀಲಿಸುವುದು.’

85. The aforesaid note after translation to English language reads as under:

‘To resolve the impediments in relation to accepting and implementation of the recommendations made by the Expert Committee, the Committee headed by the Chief Secretary to re-examine the same.’

86. On scrutiny of the record made available by the respondent State Government, we do not find any reason behind the aforesaid note recorded by the Political Executive. In our considered view, an order of Political Executive ought to have rested on some tangible basis and the power should have been exercised objectively with due care and prudence.

87. King can do no wrong is a doctrine propounded and cherished in the 'West', but in the 'East', King is also governed by '*dharma*' which is synonymous to word '*principle*'.

88. In S.N. Mukherjee (*supra*), the Hon'ble Supreme Court while expounding the principles of natural justice has held that the requirement to record reason can be regarded as one of the principles of natural justice which govern the exercise of power by administrative authorities.

89. Reason is the heartbeat of every administrative order. Reason introduces clarity in an order and without a reason, an administrative order becomes lifeless. Absence of reason renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. This has been ruled by the Hon'ble Supreme Court in **Sant Lal Gupta & Ors Vs. Modern Co-operative Group Housing Society Ltd. and Ors** (2010) 13 SCC 336 and in **Victoria Memorial Hall** (*supra*).

90. Acting upon the dictate of the Political Executive, the High Power Committee again met on 16.12.2015 and retracted from its earlier decision dated 05.10.2015 and recommended the equivalence between the Principal Police Force and the Assistant Commandants of KSRP by making following observations:

- I. Assistant Commandants of KSRP and the DySPs from Civil stream are not only recruited through common combined competitive written examination and personality test, but also undergo exactly the same basic training at the Karnataka Police Academy. Moreover, Assistant Commandants also undergo practical training at various units like CID and the Commissionerates.
- II. By virtue of having commanded the battalions, which comprise approximately 1000 Policemen and officers of various ranks, the Assistant Commandants and Commandants of KSRP do acquire adequate experience of man management and resource management as is performed in the district by the Superintendent of Police. KSRP officers are in the first line of handling law & order problems in coordination with civil officers, hence they obtain adequate exposure of management of law & order situation. The committee, however, noted that Assistant Commandants of KSRP lack experience of investigation and supervision of criminal cases. This, the committee felt, could be remedied during training before or after induction into IPS.
- III. Simultaneously, as per the recommendation of the Expert Committee, the direct recruitment of Assistant Commandants may be discontinued and the quota of direct recruit Assistant Commandant, KSRP may be merged with that of directly recruited Deputy Superintendent of Police, Civil.
- IV. The committee also reiterated its earlier view that declaring only the directly recruited Assistant Commandant of KSRP as equivalent to DySP (Civil), ignoring promotees (i.e., Assistant Commandant who have risen from ranks of RSI) who may be even senior to them in the gradation list, may not be legally tenable. Once an officer is an Assistant Commandant, it is immaterial whether he is a direct recruit or a promotee. They have to be treated equally as per the gradation list. It may be administratively not possible to restrict the equivalence only to the directly recruited officers and exclude those promoted from the rank of PSIs/RSIs as long as they fulfil other

conditions of eight years of service in the rank of DySP and are within the upper age limit of 56 years. Distinguishing promotee and directly recruited officers is not tenable in law.

V. Hence, for the purpose of promotion to the Indian Police Service, Assistant Commandants of KSRP can be declared as equivalent to Deputy Superintendent of Police, Civil.

91. A perusal of aforesated reasons which became the basis of issuance of 23.01.2016 order still do not have semblance with the statutory duties and functions casted upon the police officers in terms of Sections 65 to 77 of the '1963 Act' as well as Chapters V, VII, VIII, X, XI and XII of the Code of Criminal Procedure and para 160 to 197 of the Karnataka Police Manual. In this view of the matter, we hold that the order is not only arbitrary but it is a result of colourable exercise of power as well.

92. So far as the argument of Shri P.S. Rajagopal, learned Senior Advocate, that the A.R. Infant Committee cannot be termed to be a 'broad based expert committee' as the members of the said committee cannot be said to be the experts to undertake the exercise of equivalence, is concerned, it requires to be noticed here that after taking note of the chequered history of the case, the Hon'ble High Court while deciding Writ Petition No. 3269/2012 issued the directions to respondent State Government to constitute a 'broad based expert committee'. The Government in its wisdom decided to seek opinion of the Department of Home as well as the Director General and Inspector

General of Police for constitution of the said 'broad based expert committee'. Accordingly, the Director General and Inspector General of Police vide his letter dated 27.09.2013 recommended the names of Shri A.R. Infant, DGP (Retd), Shri M. Lakshman, IGP (Retd) and Shri Ashit Mohan Prasad, the then ADGP, Intelligence to constitute the aforesaid 'broad based expert committee'. While forwarding the said letter, no reasons were assigned stating therein that how these three persons are considered to be experts and what kind of experience they are having. The fact that the DG&IG of Police has not assigned any reason to make recommendation of these three names, was also noticed in the noting file while processing the letter dated 27.09.2013 received from DG&IG of Police. However, ignoring the said fact, the committee was notified by the Government vide order dated 22.11.2013 and the report dated 25.07.2015 was submitted by the said committee.

93. It appears that even the Government was not satisfied with the report submitted by A.R. Infant committee and, therefore, the said report was placed before the High Power Committee on 05.10.2015 headed by the Chief Secretary to Government which in fact opined on 05.10.2015 that the recommendations made by A.R. Infant committee cannot be accepted.

94. Phrase 'broad based expert committee' has neither been defined in any of the Act, Rules and the Regulations, nor the Hon'ble High Court while deciding the Writ Petition No. 3269/2012 determined the constitution of the said 'broad based expert committee'. It was left to the State Government to constitute the said committee and after taking a report decide the matter of equivalence one way or the other. Since the phrase 'broad based expert committee' has not been defined anywhere, therefore, Shri Rajagopal, learned counsel for the applicant, drew our attention towards Oxford Advanced Learners Dictionary of Current English wherein phrase 'broad based' has been defined as "*based on a wide variety of people*". Similarly the Chambers Dictionary (Deluxe Edition) defines the phrase 'broad based' as "*a wide range of opinions*".

95. A constitution bench of the Hon'ble Supreme Court in **Commissioner of Wealth Tax, Andhra Pradesh Vs Officer-in-Charge (Court of Wards), Paigah** while examining the question as to whether the dictionary meanings are to be relied upon or not has held that the ordinary dictionary meaning cannot be discarded simply because it is given in a dictionary. Para 8 of the report reads thus:

'8. It is true that in Raja Benoy Kumar Sahas Roy's case, this Court pointed out that meanings of words used in Acts of Parliament are not necessarily to be gathered from dictionaries which are not authorities on what Parliament must have meant.

Nevertheless, it was also indicated there that, where there is nothing better to rely upon, dictionaries may be used as an aid to resolve an ambiguity. The ordinary dictionary meaning cannot be discarded simply because it is given in a dictionary. To do that would be to destroy the literal rule of interpretation. This is a basic rule relying upon the ordinary dictionary meaning which, in the absence of some overriding or special reasons to justify a departure, must prevail. Moreover, it was held there that the dictionary meanings of the word "agricultural" were wider than what was meant by "agricultural income" as that term was used in the Income tax Act. Even if we could give a wider connotation to the term "agricultural" than the one it carries with it in the Income tax Act, we cannot dispense with credible evidence of at least appropriation or setting apart of the land for a purpose which could be regarded as agricultural and for which the land under consideration could be reasonably used without an alteration of its character. This, we think, is the minimal test of "agricultural land" which should be applied in such cases.'

96. While focusing on the issue in hand, we find that all the three officers who constituted A.R. Infant committee were the members of Indian Police Service and the narration with regard to the kind of experience, has not been given in the records produced by the respondents.

97. The argument of Shri Ajay Kumar Patil that since one of those three officers was officer who got promotion to Indian Police Service and, therefore, the A.R. Infant Committee can be termed to be a 'broad based expert committee', does not find favour with us as the functions and duties assigned to the principal police under Sections 65 to 77 of '1963 Act', Chapters V, VII, VIII, X, XI and XII of the Code of Criminal Procedure and para 160 to 197 of the Karnataka Police Manual vis-a-

vis the duties and functions assigned to reserve police officer, under Section 151 read with Section 144 of the '1963 Act' and para 1684 of the Karnataka Police Manual could have been evaluated in a better manner, had there been the wide range of opinions from the people of wide variety like an expert on human resource, an expert on policy-making, a Judge, a lawyer, a public prosecutor etc. etc, which has not happened in this case. Be that as it may, looking towards the opinion expressed by the High Power Committee on 05.10.2015, in our opinion, the A.R. Infant Committee has failed to yield the desired results.

98. In the conspectus of discussions made in the foregoing paragraphs, an irresistible conclusion can be drawn that whole of the process of making the decision, leading the State Government to issue the order dated 23.01.2016, continued without any adequate determining principle. It appears to be a will and pleasure of the higher echelons who have not only missed the relevant factors in the whole process but have also ignored the well enunciated principles determined by the Hon'ble High Court of Karnataka in **Ramesh Rangashamaiah vs The State of Karnataka** (Writ Petition No. 3269/2012 decided on 25.04.2013) and by the Hon'ble High Court of Kerala in **T.Chandran and Others Vs. Union of India and Others** – 2004 (5) SLR 674.

99. Ordinarily, 'arbitrariness' is synonymous with bad faith or failure to exercise honest judgment and an arbitrary act would be one performed without adequate determination of principle and one not founded in the nature of things (Black's Law Dictionary with Pronunciation, Centennial Edition, 1891-1991). In our considered opinion, the whole exercise has proceeded in an arbitrary manner and the decision consequent thereto cannot be sustained. The order dated 23.01.2016 can neither be termed to be in consonance with the Hon'ble High Court's judgment in **Ramesh Rangashamaiah** (supra), nor it can stand the scrutiny of Article 14, being arbitrary.

100. In **E.P. Royappa vs State of Tamil Nadu and others** 1974 (1) SLR 497, a Constitution Bench of the Hon'ble Supreme Court has observed that equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. The State action must be based on valid relevant principles and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality. The relevant observations from paragraph 82 of the said report are reproduced here as under:

'82. xx From a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and

constitutional law and is therefore violative of Art. 14, and if it affects any matter relating to public employment, it is also violative of Art. 16. Arts. 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valid relevant principles applicable alike to all similarly situate and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality. Where the operative reason for State action, as distinguished from motive inducing from the antechamber of the mind, is not legitimate and relevant but is extraneous and outside the area of permissible considerations, it would amount to mala fide exercise of power and that is hit by Arts. 14 and 16. Mala fide exercise of power and arbitrariness are different lethal radiations emanating from the same vice; in fact the latter comprehends the former. Both are inhibited by Arts. 14 and 16'

101. Accordingly, Original Applications No. 170/00355-359/2016, 170/00362 & 364/2016, 170/00365-377/2016, 170/00631-632 & 634-635/2017 are allowed. The Government Order dated 23.01.2016 and the communications dated 01.09.2017 and 17.10.2017 issued pursuant thereto are hereby quashed and set aside.

102. Since the Government Order dated 23.01.2016 has been quashed, therefore, no relief can be granted in OA No. 182/2020 and the same is hereby dismissed.

103. There shall be no orders so as to costs.

**(RAKESH KUMAR GUPTA)
MEMBER (A)**

**(SURESH KUMAR MONGA)
MEMBER (J)**