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Central Administrative Tribunal

Principal Bench

- (1) O.A. No. 1525 of 2001.  
with  
(2) O.A. No. 1598 of 2001  
(3) O.A. No. 1599 of 2001  
(4) O.A. No. 1600 of 2001  
(5) O.A. No. 1545 of 1998.

New Delhi, dated this the 16<sup>th</sup> April, 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)  
HON'BLE MR. SHANKER RAJU, MEMBER (J)

O.A.No.1525/2001:

Bakul Kumar Mishra  
Vs.  
Union of India & Others

O.A.No.1598/2001:

G.P.Mishra  
Vs.  
Union of India & Others.

O.A.No.1599/2001:

Fanindra Kumar Mohanty  
Vs.  
Union of India & Others

O.A.No.1600/2001:

Nrusingh Nath Nanda  
Vs.  
Union of India & Others

O.A.No.1545/1998:

S.K.Bansal  
Vs.  
Union of India & Others

Presence: Shri Nageswar Rao, Sr. Counsel with  
Sh. S.Misra and Sh. K.N.Tripathy, counsel  
for applicant in OA 1525/2001.  
Sh. J.K.Das, counsel for Respondent No.3.  
Sh. B.N.Singhvi with Sh. V.K.Garg, counsel  
for applicant in OA No.1545/98.  
Shri R.P.Aggarwal, counsel for R-1.

ORDER

SHANKER RAJU,M(J)

This full Bench of CAT Principal Bench has  
been constituted to answer the following reference  
made by a Division Bench of the CAT, Cuttack Bench:

(1) Whether Assistant Commandant of Orissa Military Police and Deputy Superintendent of Police constituted one cadre prior to 5.11.80 or these two categories of posts were included in two different cadres w.e.f. 14.7.47?

(2) In case the first question is answered by holding that the two categories of posts were included in two different cadres from 14.7.47, whether a specific declaration of equivalency by the State Govt. is necessary for the purpose of considering Assistant Commandants for promotion to Indian Police Service till 4.11.80?

2. The facts may be summarised.

3. One Shri Gopabandhu Biswal was in military service prior to November, 1972. After his release from military service, he applied for the post of Assistant Commandant in the Orissa Military Police, pursuant to an advertisement published by the Orissa Public Service Commission, inviting applications from ex-military officers. He was accordingly selected and appointed as Assistant Commandant in Orissa Military Police. He qualified in the departmental examinations and was confirmed as Assistant Commandant w.e.f. 15.12.75. Thereafter according to him, though he was eligible for consideration for promotion to IPS, he was not so considered because according to the respondents, only Deputy Superintendents of Police in the Orissa Police Service were eligible for promotion to IPS. Shri Biswal filed a writ petition in the Orissa High Court in 1982 praying for a writ of mandamus to consider him for promotion to IPS. The Central Administrative Tribunal Cuttack Bench to which his petition was transferred after coming into force of AT Act, 1985,

and where it was numbered as TA-1/89, held that the post of Deputy Superintendent of Police and Assistant Commandant constituted a single cadre prior to 5.11.80. His application was therefore allowed by CAT Cuttack Bench vide order dated 24.12.91, and respondents were directed to consider his case for promotion to IPS w.e.f. 1.1.77 in respect of each year beginning therefrom till January, 1980. After 4.11.80 Shri Biswal, if he was not promoted earlier, did not deserve further consideration because, according to CAT Cuttack Bench, the post of Asstt. Commandant, was bifurcated into a separate cadre w.e.f. 5.11.80.

4. The State of Orissa and two other respondents filed SLP (C) No.7479 of 1992 in the Hon'ble Supreme Court challenging the CAT, Cuttack Bench's aforesaid order dated 24.12.91. The aforesaid SLP was dismissed by the Apex Court on 3.8.92 and a Review Petition filed against the aforesaid dismissal order dated 3.8.92 was also dismissed by the Apex Court.

5. In July, 1993, S/Shri K.C.Mohanty and Raj Kishore Dash who were in the Orissa State Police Service filed an application before CAT Cuttack Bench which was subsequently converted into RA No.16/93. These two respondents contended that the decision of CAT, Cuttack Bench dated 24.12.91 to the effect that the cadres of Deputy Superintendents of Police in the Orissa Police Service and Assistant Commandants in the State Military Police constituted a single cadre in the Orissa Police Service till 4.11.80, was

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incorrect and that on a proper examination and interpretation of all relevant documents and Govt. orders it should be held that Deputy Superintendents of Police in the Orissa Police Service and Assistant Commandants in Orissa Military Police never constituted a single cadre at any time. They contended that the two cadres had always remained separate and Assistant Commandants in Orissa Military Police were not eligible for promotion to IPS. A similar RA No.18/93 was filed by S/Shri Manmohan Praharaj and Anup Kumar Patnaik who were direct recruits to IPS. At around the same time, OA Nos.276/93, 277/93 and 278/93 were filed by three applicants who were at the material time, Assistant Commandants in the Orissa Military Police, praying for granting them the benefit of the Tribunal's decision dated 24.12.91 in TA No.1/89 for the purpose of promotion to IPS.

6. These two RAs and three OAs were considered together by CAT, Cuttack Bench who by its order dated 24.6.94 reviewed its earlier order dated 24.12.91 holding that there were errors apparent on the face of the record, because the two cadres of Deputy Superintendents of Police in Orissa Police Service and Assistant Commandants in Orissa Military Police were two separate cadres since inception and Assistant Commandants in Orissa Military Police were not eligible for promotion to IPS. The Tribunal therefore dismissed the application of Shri Biswal and also dismissed the three pending OAs bearing No.276, 277, 278 of 1993.

7. Appeals against the aforesaid order dated 24.6.94 in regard to the two RAs as well as 3 OAs were carried to Hon'ble Supreme Court in Civil Appeal Nos.3451-3455 of 1996 Gopabandhu Biswal Vs. Krishna Chandra Mohanty & Ors., which were disposed of by order dated 21.4.98.

8. At the outset the Hon'ble Supreme Court in its aforesaid order dated 21.4.98 posed the question as to whether the Tribunal was entitled to review its earlier order dated 24.12.91 in TA No.1/89. Having regard to the fact that an SLP against the same had been dismissed by the Hon'ble Supreme Court and a review petition filed against the dismissal of SLP had also been dismissed by the Apex Court, their Lordships held that:

"In such a situation, to say the least, it was wholly inappropriate for the Tribunal to sit in judgment on the merits of this Court's order dismissing the special leave petition giving finality to the Tribunal's main order. In the present case, therefore, on the dismissal of the special leave petition by this Court, the judgment of the Tribunal in TA No.1/89 became final and binding as between the parties and the Tribunal had no power to review that judgment thereafter."

9. On the plea raised that the four applicants who had filed the two RAs before the Tribunal were not parties to the main petition, nor were they parties to the SLP filed in the Hon'ble Supreme Court which was dismissed, but were parties aggrieved and were, therefore, entitled to apply for a review of the main judgment of the Tribunal, the Hon'ble Apex Court held that it was wholly impermissible for them to seek review of the aforesaid order dated 24.12.91 and even if they were

persons aggrieved, they did not have a right of review under Order 47 Rule 1 CPC. Indeed it, was difficult to even include the applicants in the review applications in the category of "persons aggrieved". Shri Biswal had joined as respondents all those persons who had superseded him for selection to the Indian Police Service and the Tribunal had directed that Shri Biswal be considered for promotion between 1977 and 1980 but not thereafter. During this period, the two applicants in RA No.16/93 were nowhere within the zone of consideration for promotion to IPS, while the two applicants in RA No.18/93 were direct recruits to IPS of 1975 and 1978 batches and as such belonged to a different quota and were not concerned with the appointments made within the promotee quota from the State Police Service. If at all they would be affected by the promotion given to original applicant Shri Biswal, that would be in respect of their chance for promotion to the next higher post, but this did not confer any legal right on them. The Hon'ble Apex Court accordingly held that the Tribunal was not entitled to, and ought not to have entertained the two RAs, once the SLP against the main order had been dismissed.

10. In respect of the three OAs filed under the AT Act, the Apex Court noted that the Tribunal had dismissed the three OAs as it had allowed the RAs and set aside its earlier order dated 24.12.91 in TA No.1/89. As the order of the Tribunal in the RAs could not be sustained, it was required to examine the three OAs filed before it on merit and dispose

them of in accordance with law. While deciding these OAs, the Tribunal could not ignore its earlier judgment because "the use of precedent was an indispensable foundation upon which to decide what was the law, and its application to individual cases as it provided at least some degree of certainty upon which individuals could rely in the conduct of their affairs, as well as provided a basis for orderly development of legal rules." (Halsbury Fourth Edn. Vol.26 para 573).

11. The Hon'ble Apex Court then went to observe as follows:

"If the Tribunal decides to follow its earlier judgment the respondents in these applications can file petitions for leave to appeal if they so desire; and any other person aggrieved may also, with the leave of the court, apply for special leave to file an appeal. In the event of the Tribunal coming to a conclusion that its earlier judgment requires reconsideration, the Tribunal can refer the question to a larger Bench. In either case the persons aggrieved can apply and intervene to put forward their point of view."

12. The Hon' ble Supreme Court in its aforesaid order dated 21.4.98 accordingly allowed the appeals, set aside the order of the Tribunal in the two RAs and remanded OAs Nos. 276, 277 and 278 of 1993 for fresh consideration by the Tribunal in accordance with law.

13. Accordingly OAs Nos. 276, 277, 278 of 1993 alongwith another similar OA bearing No. 331/93 - F.K. Mohanty v. Union of India & Ors. came up before a Division Bench of CAT, Cuttack Bench. That Bench in its order dated 27.6.2000, (by which the present

reference has been made to this larger Bench), noted that in OA No.276/93 filed by Shri Bakul Kumar Mishra, in OA No.277/93 filed by Shri G.P.Mishra, in OA No.278/93 Nursingh Nath Nanda, the prayers made were the same, namely, that they were similarly situated as Shri Biswal and the benefit of the judgment in Shri Biswal's case (supra) should be extended to them. The Bench took note of the pleadings of the private respondents opposing the prayer, in which it was pointed out that in accordance with respondents' Circular dated 14.7.47, the cadres of Deputy Superintendent of Police in Orissa Police Service and Assistant Commandants in Orissa Military Police were separate from the year 1947-48 onwards, and this fact had not been noted by the Tribunal in its order dated 24.12.91 in TA No1/89. The grounds of laches and limitation taken by private respondents were also noticed, as also general contentions that the cadres of Deputy Superintendents of Police in Orissa Police Service and Assistant Commandant in Orissa Military Police were quite different, and at no time had applicants ever been appointed as Deputy Superintendents of Police and were, therefore, not entitled to be considered for promotion to IPS.

14. The stand of the State Govt. of Orissa was also noted that applicants were appointed as Assistant Commandants in Orissa Military Police and had never been appointed as Members of Orissa Police Service Class II, which was considered to be the Principal Police Service of State, and therefore they were not entitled to be considered for promotion to



IPS. In 1947 there were two separate cadres of Deputy Superintendents of Police in Orissa Police Service and Assistant Commandants in Orissa Military Police, as was clear from letter dated 14.7.47. The functions of the two posts, their methods of recruitment, their courses of training, their postings, duties and responsibilities etc. were also different and hence these two posts could not be taken to be belonging to a single cadre till January, 1980. The pleas of delay and laches taken by the State Govt. of Orissa were also noted by the Bench.

15. The Bench further noted the arguments advanced on behalf of applicants that in Biswal's case (Supra) it had been held by the Tribunal vide its order dated 24.12.91 that the posts of Assistant Commandants in Orissa Military Police and Deputy Superintendents of Police in Orissa Police Service constituted a single cadre till 4.11.80, and as this decision had been upheld by the Hon'ble Supreme Court and had thus attained finality, what was now sought for by applicants was merely extension of the benefits allowed by the Tribunal in Biswal's case (Supra) to themselves and it was not now open for the Tribunal to go into the question whether Assistant Commandants in Orissa Military Police and Deputy Superintendents of Police in Orissa Police Service constituted a single cadre or not, prior to 5.11.80. However, having regard to fact that the Hon'ble Supreme Court in its order dated 21.4.98 had observed that in case the Tribunal concluded that its earlier order in Shri Biswal's case (supra) required

reconsideration, it could refer the question to a larger Bench, the Tribunal observed that it had been left open to the Tribunal by the Hon'ble Supreme Court to consider this whole question afresh and therefore rejected the contention advanced on behalf of applicants that it was bound to follow the ruling in Shri Biswal's case (supra).

16. After further noticing certain documents on the basis of which either side sought to advance its claims, the Bench adverted to the Tribunal's order dated 24.12.91, in TA No.1/89 in para 12 of which it had been observed

"...But in the present case, one would find that the admitted case of the parties before us is that the posts of Assistant Commandant and Deputy Superintendent of Police formed one and the same cadre till 5.11.80 ...."

17. The Bench held that from the pleadings of the parties in TA No.1/89 it was seen that respondents had nowhere admitted that prior to 5.11.80, Deputy Superintendents of Police in Orissa Police Service and Assistant Commandants in Orissa Military Police formed one and the same cadre. In the present case also the official respondents as well as the private (intervenors) respondents had strenuously contended that these two categories of posts formed two different cadres from July, 1947 onwards and it was, therefore, difficult to follow the decision of the Tribunal in TA No.1/89, without considering afresh the submissions made by either side.

18. After noting the contents of respondents' circular dated 14.7.47 which spoke of two separate cadres being constituted, one for the post of Deputy Superintendent of Police in Orissa Police Service and the other for the post of Assistant Commandant in Orissa Military Police, the Bench took note of the Recruitment Rules promulgated by the State Govt. in 23.4.38 laying down the method of recruitment to Orissa Police Service, while the Orissa Military Police Act, 1946 came into force much later. After noting that the mode of recruitment as well as training imparted, and duties and responsibilities of Dy. Superintendents of Police in Orissa Police Service on the one hand and Assistant Commandant in Orissa Military Police on the other were quite different, the Bench also noted that there was not a single instance of an Assistant Commandants in Orissa Military Police being posted as a Deputy Superintendent of Police. The Bench further noted that "State Police Service" had been defined in Rule 2(j) of Indian Police Service (Appointment by Promotion) Regulations, 1955 to read as follows:

"State Police Service means:-  
(i) xx xx xx

(ii) in all other cases, the Principal Police Service of a State, a member of which normally holds charge of a sub-division or 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 Govt. to be equivalent thereto."

18A. It observed that from the above, it was clear that the cadre of Deputy Superintendent of Police constituted the Principal Police Service of a State, a member of which normally held charge of a

Sub-Division. This rule also provided that Principal Police Service of a State would include any other duly constituted police service functioning in the State which was declared by the State Govt. to be equivalent thereto, but the State Govt. had never issued any order declaring the post of Assistant Commandant of Orissa Military Police as equivalent to that of Deputy Superintendent of Police in Orissa Police Service. Merely because the pay and allowances of both posts were similar did not make such a declaration of equivalence redundant, which was a positive act which the State Government was required to perform, and indeed the Tribunals findings in its order dated 24.12.91 that on the one hand the two posts belonged to a single cadre prior to 5.11.80 and on the other that because the pay and allowances and status of the two posts was similar, a declaration of equivalence was unnecessary, was contradictory.

19. In conclusion the CAT Cuttack Bench had held that the Tribunal's order dated 24.12.91 in TA No.1/89 required reconsideration and accordingly referred these OAs to a larger Bench for answering two points of reference mentioned in para 1 above.

19A. Upon a prayer being made in Principal Bench by some of the applicants for transfer of these cases to the Principal Bench, as a larger Bench was not likely to be constituted in Cuttack in the near future, the same was allowed by order dated 26.4.2001

and all these OAs were transferred to the Principal Bench where <sup>They were</sup> ~~it was~~ renumbered and were posted for hearing before a larger Bench of the Principal Bench.

20. We have heard both sides. Written submissions have also been filed which have been taken on record. We have given the matter our careful consideration.

21. In our considered opinion, the basic question which falls for consideration is whether Assistant Commandants appointed to the Orissa Military Police Service are eligible for consideration for appointment by promotion to the IPS.

22. Recruitment to the Indian Police Service is governed by the Indian Police Service (Recruitment) Rules, 1954. Rule 7 thereof provides for recruitment by competitive examination; Rule 7-A provides for recruitment by selection of persons from among released Emergency Commissioned Officers and Short Service Commissioned Officers commissioned in the Armed Forces of the Union after 1.11.62; Rule 8 stands repealed; while Rule 9 provides for recruitment by promotion.

23. As it is not applicants' case that they are seeking appointments to IPS by direct recruitment under Rule 7; or by selection of persons from amongst released Emergency Commissioned Officers and Short Service Commissioned Officers under Rule 7-A; and it is their case that they should be appointed to IPS by

promotion, it is Rule 9 IPS (Recruitment) Rules, 1954 governing recruitment by promotion which becomes relevant.

24. Rule 9(1) IPS (Recruitment) Rules, 1954 lays down that the Central Govt. may, on the recommendation of the State Govt. concerned and in consultation with the UPSC, recruit to the Service persons by promotion, from amongst the (substantive) members of a State Police in accordance with such regulations as the Central Govt. may, after consultation with the State Governments and the UPSC, from time to time make.

25. In this connection the Central Govt. has framed the IPS (Appointment by Promotion) Regulations, 1955 in consultation with the State Govts. and the UPSC, pursuant to Rule 9(1) IPS (Recruitment) Rules, 1954.

26. Regulation 2 (j) thereof which defines State Police Service is relevant and is extracted in full:

"State Police Service means- (i) for the purpose of filling vacancies in the Indian Police Service Cadre for the Union Territories under Rule 9 of the Recruitment Rules, any of the Recruitment Rules, any of the following services, namely:-

(a) the Delhi and Andaman and Nicobar Islands Police Service;

(b) Deleted.

(c) Deleted.

(d) the Goa, Daman and Diu 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 Govt. to be equivalent thereto;"

27. For our purpose, Regulation 2 (j) (ii) above is extremely relevant, which provides that appointment by promotion to IPS will be made from 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 has been declared by the State Govt. to be equivalent thereto.

28. A close reading of aforementioned Rule 2 (j) (ii) reveals that what is required for eligibility for consideration for promotion to IPS is that the police officer concerned must belong to the Principal Police Service of the State, a member of which normally holds charge of a sub-division or district for purposes of police administration (emphasis supplied) <sup>and</sup> ~~which~~ includes any other duly constituted police service functioning in a State which has been declared by State Govt. to be equivalent thereto. (emphasis supplied)

29. All the applicants in the present OAs were appointed as Assistant Commandants in the Orissa Military Police which was constituted by the Orissa Military Police Act, 1946. Section 2 of this Act contains Definitions and Section 2 (5) defines

"Assistant Commandant" as being a person appointed by the Provincial Govt. to be an Assistant Commandant of Military Police and includes an Assistant or Deputy Superintendent of Police not (emphasis supplied) incharge of the civil police of a district or of a sub-division. It follows, therefore, that an Assistant Commandant in Orissa Military Police does not normally hold charge of a sub-division or district for purposes of police administration under 2 (j) (ii) IPS (Appointment by Promotion) Regulations and, therefore, they cannot be considered for promotion to IPS.

30. Furthermore, even if the Orissa Military Police comes under the category of any other duly constituted police force functioning in the State, within the meaning of Rule 2(j)(ii) IPS (Appointment by Promotion) Regulations, 1955, no conclusive materials have been shown to us on behalf of applicants to establish that the State Govt. has issued any declaration of equivalence, which as the Division Bench in its order dated 27.6.2000 has correctly pointed out, is a positive act which the State Govt. was required to perform.

31. On behalf of applicants, reliance has been placed on resolution dated 22.2.73 regarding augmentation of the Orissa Police Service Cadre which refers to 12 posts of Assistant Commandants having been made permanent in the Orissa Police Service and also refers to 16 Duty Posts of Assistant Commandants. Reliance is also placed on correction slip No.5 of 1989 to Orissa Police Manual which while



referring to the Branch of the Orissa Police also refers to the Military Police, and also on Resolution dated 5.11.80 excluding 16 duty posts of Assistant Commandants from the Orissa Police Service to constitute a separate cadre because no Assistant

Commandant performs the duties of a Deputy Superintendent of Police.

32. Nothing can be read into aforementioned Resolution dated 21.2.73 or Resolution dated 5.11.80 to contend that Assistant Commandants in Orissa Military Police are members of the Principal Police Service in the State who normally hold charge of a sub-division of a District for purposes of police administration and Correction Slip No.5 to the Orissa Police Manual ~~is~~ containing<sup>?</sup> no declaration of equivalence within the meaning of Rule 2(j)(ii) above. As pointed out by respondents there are no materials on record to show that the members of the Orissa Police Service and those of the Orissa Military Police had at any time been merged on a single grade or cadre in the service of Orissa State and the letters/ resolutions/correction slip relied upon by applicants, cannot be termed as reflecting the cadre position as required under the IPS (Cadre) Rules, 1954 or IPS (Fixation of Cadre Strength) Regulations, 1955. The posts of Assistant Commandant in Orissa Military Police do not ipso facto become equivalent to the posts of Deputy Superintendent of Police in Orissa Police Force even as per letter dated 14.7.47 and resolution dated 22.2.73 for the

reasons inter alia that the post of Deputy Superintendent of Police in Orissa Police Force which were 59 in number, have been shown as separate and distinct from the 16 posts of Assistant Commandants in Orissa Military Police. These posts have not been clubbed together but have been shown as a separate posts. Furthermore, members of Orissa Military Police cannot be part of the cadre of the Orissa Police Force as they were recruited and are governed by a separate Act namely, the Orissa Military Police Act, 1946; their channel of promotion is within the strength under the said Act and rules thereunder. Only those members of the State Police Service which is the Orissa Police Service would constitute the Principal Police Service of the State and nothing has been shown to us to establish that the posts of Assistant Commandants comes within the Orissa Police Service either under the Orissa State Police Service Act or in the Orissa Police Manual.

33. From the foregoing discussion, it is clear that the Orissa Police Service and the Orissa Military Police are two distinct police services functioning in Orissa State. The Orissa Police Force has been constituted under the Orissa Police Force Act, 1938 while the Orissa Military Police has been constituted under the Orissa Military Police Service Act, 1946. Thus, each of these two police services is governed by its own Act and Rules framed thereunder. Each of these two police services has its own rank structure. Section 4 of Orissa Military Police Act provides that the rank and structure in the Orissa Military Police would consists of Sepoy,

Naiks, Havildar, Havildar-Major, Jamadars, Sergeant, Subedars and Sergeant-Major. This rank structure corresponds closely with <sup>the</sup> rank structure obtaining in the Indian Army and is entirely different from the rank structure obtaining in the Orissa Police Force which consists of Constable, ASI, SI, Inspector, Dy. Supdt. of Police, etc. Members of the Orissa Police Service and those belonging to the Orissa Military Police each operate very largely within their own sphere of duties and responsibilities and the penalties listed in the Orissa Military Police Act, 1946 for heinous as well as non-heinous offences which also corresponds closely with the penalties in respect of those belonging to military formations, is also quite different from the penalties which can be inflicted on members of the Orissa Police Service under the relevant disciplinary Rules. Respondents are also, on record, as stating that the methods of recruitment, course of training, etc. in respect of members of the Orissa Police Service are quite different from those applicable to members of Orissa Military Police which has not been effectively <sup>denied</sup> ~~decided~~ by applicants, and respondents assertion that there has been no instance of an Assistant Commandants of Orissa Military Police being posted as Dy. Supdt. of Police has also not been effectively rebutted.

34. Thus, the Orissa Police Service and Orissa Military Force are two distinct police services, each constituted under its own Acts and rules thereunder; with their own cadres; sphere of duties and responsibilities; job contents;

performance standards; hierarchy and activity structures; rank structure; penalties etc. There can be no doubt that it is the Orissa Police Service which is the Principal Police Service in Orissa State within the meaning of Regulation 2(j)(ii) of IPS (Appointment by Promotion) Regulation, 1955, and as the Assistant Commandant in Orissa Military Police is not a Member of the Orissa Police Service and normally does not hold charge of a sub-division of a District for the purpose of Police Administration in view of Section 2(5) of Orissa Military Police Act, 1946, and even otherwise, he is not eligible for consideration for promotion to the IPS under Regulation 2(j) (ii) above. No doubt the Orissa Military Police is a duly constituted Police Service in Orissa State, but no conclusive materials have been shown to us on behalf of applicants to establish that there has been a declaration of equivalence issued by the State Govt., which is a mandatory, legal requirement under Regulation 2(j)(ii) above, if members of other duly constituted police services in Orissa State are also to be declared eligible for consideration for promotion to the IPS.

35. In the result, the reference is answered as follows:

(i) Assistant Commandants of Orissa Military Police and Deputy Superintendent of Police did not from one cadre prior to 5.11.1980.

(ii) A specific declaration of equivalence by the State Govt. is necessary for the purpose of considering Assistant Commandants for promotion to IPS till 4.11.1980.

36. Let these OAs now be placed before the appropriate Division Bench for disposal on merits and in accordance with law.

*S. Raju*  
(Shaker Raju)  
Member (J)

*A. Vedavalli*  
(Dr. A. Vedavalli)  
Member (J)

*S.R. Adige*  
(S.R. Adige)  
Vice Chairman(A)

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