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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 394 OF 1994.
Cuttack, this the 25th day of May, 2000.

BAIDYANATH JENA.

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APPLICANT.

-VERSUS-

UNION OF INDIA & ORS.

....

RESPONDENTS.

FOR INSTRUCTIONS

1. whether it be referred to the reporters or not? *Yes*
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *NO*

J.S. Dhaliwal
(J.S. DHALI WAL)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 394 OF 1994.
Cuttack, this the 25th day of May, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. J. S. DHALI WAL, MEMBER (JUDL.).

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BAIDYANATH JENA,
Aged about 56 years,
Cantonment Road, Cuttack.

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APPLICANT.

By legal practitioner: xx xx

-VERSUS-

1. Union of India represented through its
Secretary Home Affairs, New Delhi.
2. State of Orissa represented through its
Secretary, General Administrative Department,
At/Po; Bhubaneswar, Dist; Khurda.
3. Director General-Cum-Inspector General,
of Police, At/Po/Munsiff/Dist; Cuttack.

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RESPONDENTS.

By legal practitioner: Mr. K. C. Mohanty, Government Advocate
for Respondents 2 & 3.

By legal practitioner: Mr. U. B. Mohapatra, Additional Standing
Counsel (Central) for Res. No. 1.

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

J. Som

In this original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents to give him the benefit of the years of service rendered in the Indian Police Service specially in respect of Junior Administrative Grade with retrospective effect and selection grade from the date it is due to the applicant along with all consequential service benefits.

2. State Government have filed a counter opposing the prayer of applicant. It is submitted by Mr. U. B. Mohapatra, learned Additional Standing Counsel (Central) appearing for the Government of India that Government of India has adopted the counter filed by the State Government. For the purpose of considering this petition, it is not necessary to go into too many facts of this case.

3. Applicant's case is that he was a confirmed Deputy Superintendent of Police in the State Police Service from 7-12-1969 and in notification dated 31-7-1982, he was allowed officiating promotion to Indian Police Service and was posted as Additional Superintendent of Police. Again in notification dated 6-3-1982 he was allowed officiating promotion to Indian Police Service and again posted as Additional Superintendent of Police. Ultimately, in notification dated 24-11-1984, the applicant was allowed to officiate against an I.P.S. post under Rule 9 of Indian Police Service (Cadre) Rules, 1954 for a period of three months from the date of his joining and the applicant was allowed to continue as Additional Superintendent of Police, Dhenkanal. On 1.12.1984, Government of India issued a notification under Annexure-1 promoting the applicant to the Indian Police Service. In order dated 5.10.1987, Government of India, Ministry of Home Affairs, fixed his year of allotment as 1978 taking into account his date of continuous officiation against IPS post after his name was put in in the select list. According to this order, applicant's name was in the select list continuously from 6.4.1985 and he was given officiating appointment in the

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senior post of IPS from 24.11.1984. Applicant's grievance is that his earlier officiation in the IPS post from 31.7.1982 had not been taken into account. His case is that had this been taken into account, his year of allotment would have been earlier and accordingly he would have been entitled to get selection grade and Junior Administrative Grade from a earlier date. In the context of the above facts, he has come up in this Original Application with the prayer referred to earlier.

4. Government of Orissa in his counter has opposed the prayer of the applicant. It is not necessary to go into the various averments made by the Government of Orissa in the counter because this would be referred at the time of considering the submissions made by the applicant in his application and various submissions made by the Government Advocate appearing for the Government of Orissa and Addl. Standing Counsel (Central) appearing for the Government of India at the time of hearing.

5. State of Orissa in their counter have admitted that the applicant was allowed to officiate as Additional Supdt. of Police, Sambalpur in notification dated 31.7.1982 and he held the post of Additional Superintendent of Police, Sambalpur from 11.3.1982 to 10.6.1984. He was also allowed to officiate as Additional Superintendent of Police, Dhenkanal in notification dated 26.5.1984 and he worked as such from 20.6.1984. Thus, the fact that the applicant had worked as Additional Superintendent of Police, Sambalpur from 11.3.1982 to 10.6.1984 and as Addl. Superintendent of Police, Dhenkanal from 20.6.1984 is not dispute. The only point for consideration is whether for computation of seniority and year of allotment to IPS i.e. with effect from the date he worked as Additional Superintendent of Police

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in Sambalpur and Dhenkanal is required to be taken into consideration for fixing his seniority and year of allotment. The Respondents have pointed out that this period of work as Additional Supdt. of Police in Sambalpur and Dhenkanal can not be taken into consideration as he was not allowed to officiate in higher post in accordance with the Rule-9 of the Indian Police Service (Appointment by Promotion) Rules, 1955. His period of officiation against the post of Addl.SP was regularised by the State Government by creating a post of Additional Supdt. of Police in the Orissa Police Service Cadre, in the Home Department notification dated 7.7.1988. *view Jm.* In view of this, as he had officiated against a cadre post in Orissa Police service, subsequently created, this period of his work as Addl.SP in Sambalpur and Dhenkanal can not be counted as a period of officiation in the senior post of IPS and therefore, this contention of the applicant is held to be without any merit and is rejected. Respondents have pointed out that he was allowed to officiate in the post of Additional Supdt. of Police for a period of 3 months under Rule ⁹ of the cadre *Pravin Jm.* Rules, w.e.f. 24.11.1984 and this period of officiation till 1.12.1984 when he was promoted to the post of IPS has been taken note of in fixing his year of allotment. Year of allotment of the applicant has been fixed by the Govt. of India as 1978. In this application the applicant has not *Delm* prayed for changing his year of allotment. Respondents have rightly pointed out that under the rules, an IPS officer is entitled to be considered for Junior Administrative grade on completion of 9th years of service. The applicant was promoted to the Junior Administrative Grade of IPS w.e.f. 1.11.1987. In view of this, we find that there is no case

for the applicant to get the Junior Administrative Grade on a date prior to 1987. As regards the selection grade, under the Rules, an IPS officer on completion of 13th year of service is entitled to be considered for promotion to the selection Grade. Accordingly the applicant became eligible for consideration to the selection grade w.e.f. 1991. In 1991-92, officers senior to him belonging to 1977 batch along with one officer of 1978 batch were given promotion. None of his juniors were promoted in these two years. Thereafter, the applicant's promotion to the selection grade has been considered by the Selection Committee in their meeting held on 9.11.1993 and 4.8.1994 but the selection committee did not find him suitable. In view of this, it can not be held that the applicant is entitled to promotion to the selection grade on completion of 11 years of service in IPS in 1991. It is also to be noted that the applicant has come up before this Tribunal in an earlier OA No. 507 of 1994 in which we have in a separate order dated 8.5.2000 rejected his prayer for antedating his year of allotment and for giving him Junior Administrative Grade from an earlier date and promotion to the selection grade. In consideration of this, we find no merit in this Original Application which is accordingly rejected. No costs.

(J. S. DHALI WAL)
MEMBER (JUDICIAL)

KNM/CM.

(SOMNATH SOM)
VICE-CHAIRMAN