

FREE COPY U/R 22
OF C.A.T. (PROCEDURE) RULES

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.Nos. 1107/2000, 67/2001 &
491/2001

Tuesday this the 14th day of August, 2001.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T.NAYAR, ADMINISTRATIVE MEMBER

O.A. 1107/2000

1. V. Sunilkumar,
Deputy Commandant,
KAP V Bn.,
Thrissur.
2. A. Kunhukunhu,
Deputy Commandant,
Liaison Officer,
Kerala Police Housing Construction
Corporation, Thycaud,
Thiruvananthapuram.
3. C. Sofi, Deputy Commandant,
Special Armed Police,
Peroorkada,
Thiruvananthapuram.
4. K.K. Premachandran,
Deputy Commandant,
KAP III Bn.,
Peroorkada,
Thiruvananthapuram. Applicant

(By Advocate Sri Pirappancode V. Sreedharan Nair)

vs.

1. Union of India, represented by its
Secretary, Ministry of Home Affairs,
New Delhi.
2. State of Kerala, represented by its
Chief Secretary, Secretariat,
Thiruvananthapuram.
3. Principal Secretary to Home
Home Department, Secretariat,
Thiruvananthapuram.
4. Union Public Service Commission,
represented by its Secretary,
Shajahan Road, New Delhi.
5. The Selection Committee to the
Indian Police Service constituted
under regulation 3 of IPS
(Appointment by promotion)
Regulation 1955, represented by its
Chairman, Union Public Service Commission,
Shajahan Road, New Delhi.

.2.

6. Director General and Inspector General of Police, Thiruvananthapuram. .. Respondents

(By Advocate Sri C.Rajendran ,SCGSC(R1,4 & 5)
Sri C.A.Joy (R2,3 & 6)

O.A.67/2001

P.S.Abdul Rassak,
Deputy Commandant, 1st Battalion,
Kerala Armed Police 1st Battalion, Thrissur,
Residing at TC 24/2629,
East Cliff Lane, Thiruvananthapuram-3.

..Applicant

(By Advocate Sri O.V.Radhakrishnan)

vs.

1. State of Kerala,
represented by its Chief Secretary,
Secretariat, Thiruvananthapuram.
2. Principal Secretary to Home,
Home Department,
Secretariat, Thiruvananthapuram.
3. Union Public Service Commission,
represented by its Secretary,
Shajahan Road, New Delhi.
4. Selection Committee,
for Selection to the Indian Police Service
constituted under Regulation 3 of the IPS
(Appointment by Promotion)Regulations,1955,
represented by its Chairman,
Union Public Service Commission,Shajahan Road,
New Delhi.
5. Director General of Police,
Thiruvananthapuram.
6. Union of India,
represented by its Secretary,
Ministry of Home Affairs,
New Delhi. .. Respondents

(By Advocate Sri C.Rajendran,SCGSC)
Mr.C.A.Joy,Advocate)

O.A.491/2001

1. K.Udaya Kumar,
presently working as Security Officer,
Travancore Titanium Products,
Kochuveli, Thiruvananthapuram.
2. Cycril C.Velloor,
Velloor House,
Varanthalappilly,
Thrissur.

.3.

3. Unwin.J.Antony,
T.C.25/626,
Pushpa Nagar, Thiruvananthapuram. .Applicant

(By Advocate Sri Mohan Jacob George)

vs.

1. State of Kerala represented by its Chief Secretary, Thiruvananthapuram.
2. Principal Secretary to Home, Home Department, Government Secretariat, Thiruvananthapuram.
3. Union Public Service Commission represented by its Secretary, Shajahan Road, New Delhi.
4. Selection Committee for selection to The Indian Police Service constituted under Regulation 3 of the I.P.S. (Appointment by Promotion) Regulations, 1955, represented by its Chairman, Union Public Service Commission, Shajahan Road, New Delhi.
5. Director General of Police, Kerala State, Thiruvananthapuram.
6. Union of India represented by its Secretary, Ministry of Home Affairs, New Delhi. ..Respondents

(By Advocate Sri C.A.Joy (R1,2 & 5)
Sri Shri Hari Rao, ACGSC (R3,4 & 6)

The Application having been heard on 1.8.2001, the Tribunal on 14.8.2001 delivered the following:-

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The challenge in all these Original Applications is against the order of the Government of Kerala G.O.(MS) No.534/2000/GAD dated 25.9.2000 by which the equation of the Armed Police and Armed Reserve with the Principal Police Service of the State and also the Assistant Commandants with Deputy Superintendent of Police for the purpose of promotion to I.P.S. has been dispensed with. Since the impugned orders in all these cases is one and the same and the facts

and question of law are similar in all the three cases, these applications are being considered together.

2. The historical backdrop in which these applications came to be filed can be briefly stated thus before the facts in individual cases are mentioned.

3. The State of Kerala had issued G.O.MS No.93 dated 22.1.11965 under Regulation 2(j) of the I.P.S.(Appointment by Promotion) Regulations 1955 declaring that the posts of Assistant Commandants and above in the MSP and SAP Battalions in the State as equivalent to the Principal Police Service of the State,namely,Deputy Superintendent of Police, for the purpose of Rule 4 of the I.P.S.(Appointment by Promotion) Regulation 1955 . The Government issued another order GO MS 372 dated 7.4.1965 declaring that the Malabar Special Police and State Armed Police Services as equivalent to the Principal Police Service of the State. Yet another order was issued on 23.10.1973 G.O(MS) 278/PD by which the post of Assistant Commandants and above in the Armed Reserve were declared as equivalent in status and responsibility to that of Deputy Superintendent of Police of the Principal Police Service. By another order dated 15.12.1979 G.O(MS) No.651/79/GAD , posts of Deputy Superintendent of Police and above in the Telecommunication unit was also declared as equivalent in status and responsibility to that of Deputy Superintendent of Police of the Principal Police Service in the State. The Government of Kerala issued another another G.O.(MS) No.224/89/GAD

dated 17.10.89 that the service rendered by Police Officers in the grade of Deputy Superintendents of Police and above in the Principal Police Service of the State or any other Police Services/Unit equivalent thereto under regulation 2(1)(j) of the IPS(Appointment by Promotion)Regulations in any post in non-police Departments or Public Undertakings or autonomous bodies on deputation, in public interest would be treated as service equivalent in status and responsibility to that of Deputy Superintendent of Police in the Principal Police Service. While so, one Sri K.Ramachandra Panicker, Superintendent of Police who was a member of the Principal Police Service of the State of Kerala made a representation to the Government to review the Government orders equating the MSP, SAP , Armed Reserve and Police Telecommunication wings to the Principal Police Service of the State for the purpose of Appointment by Promotion to the I.P.S. . He approached the Hon'ble High Court of Kerala filing O.P. 9509/89 and the Hon'ble High Court directed the Government to dispose of the representation made by him. The Government on a consideration of the above representation replied Sri K.Ramachandra Panicker by letter dated 24.11.1991(Annexure A17 in O.A.1107/2000) that the Government was of the view that the equation was perfectly in order, that the dispensation had been working satisfactorily for many years and no change was felt necessary. The same Ramachandra Panicker had filed O.A.318/90 for a declaration that the Deputy Superintendents of Police and above in the Telecommunication wing, Armed Police Battalion and Armed Reserve are not equivalent posts

and cannot be equated with the Deputy Superintendent of Police of Principal Police Service, that the decision of the Ministry of Home Affairs vide letter No.28/38/64 AIS III dated 5.1.1965 is ultra vires and is beyond the competence of Central Government to delegate this power to the State Government and for other reliefs. The application was contested by the State of Kerala and the Tribunal by order dated 31.1.1992 finding no merit in the contention of Sri Ramachandra Panicker that the equation of the posts of Telecommunication, Armed Police Battalion etc. to the post of Deputy Superintendent of Police of Principal Police Service of the State, was arbitrary and irrational, dismissed the application. Another O.A. 520/95 was filed by one Sri G.Janardhanan Nair, Deputy Superintendent of Police seeking the order of declaration of equivalence set aside. The Tribunal vide its order dated 20.11.1995 directed the State Government to examine the matter afresh and to take a decision. Pursuant to the above direction of the Tribunal, the Government considered the issue again and issued order G.O.(MS) 133/96/GAD dated 24.4.1996(Annexure A18 in O.A.1107/2000) cancelling the order G.O.(MS) No.651/79/PD dated 15.12.1979 declaring the post of Deputy Superintendent of Police and above in the Telecommunication wing as equivalent in status and responsibility to that of Deputy Superintendent of Police in the Principal Police Service, but holding that the declaration of equivalence of officers of MSP, Armed Police Battalion and Armed Reserve with the officers of the general executive branch made many years ago and which did not cause any serious difficulty,

did not require any reconsideration. Further as late as on 1.4.98, the Government had written a letter No.62106/A1/97/Home to the Director General of Police in which it was stated that the Government had clarified that the equation of the officers of the Armed Police Battalion, Armed Reserve with the general executive branch did not require any reconsideration(Annexure A19), While the matters stood so, the Government of Kerala issued G.O.(MS) No.534/2000/GAD dated 25.9.2000, the order impugned in all the 3 cases, dispensing with the equation of the Armed Police and Armed Reserve with the Principal Police Service of the State and also the Assistant Commandants with Deputy Superintendent of Police for the purpose of promotion to the I.P.S. The applicants in all these cases who are members of the Kerala Armed Police Battalion, are directly aggrieved by the impugned order inasmuch as the order takes away their rights to be considered for induction to the I.P.S. and therefore they have filed these applications seeking to set aside the said order.

4. The facts of the individual cases are stated in a nutshell as follows.

O.A.1107/2000

5. The applicants 1 to 4 being members of the Scheduled Castes were recruited under Special Recruitment as Inspectors of Police in the Armed Police Battalion during 1984 and 1985. They were promoted as Assistant Commandant

during 1987-90 and were all confirmed in service. They have also been promoted to the post of Deputy Commandant. As all of them had completed 8 years of service as Assistant Comandants, they were expecting to have their names considered for induction to the I.P.S. according to the provisions of Indian Police Service(Appointment by Promotion)Regulations. Finding that their chances for appointment to the I.P.S. by promotion have been taken away by the impugned order(Annexure A29), the applicants have filed this application seeking to set aside the impugned order and for a direction to the respondents to consider their names for promotion to the I.P.S.

6. The first respondent the Union of India has filed a statement stating that it is for the State Government to declare the equivalence and therefore the contention of the State Government may be examined.

7. The second respondent the State of Kerala has filed a reply statement in which the impugned order is sought to be justified on the ground that the impugned order was issued after considering the recommendation of a Committee headed by the Principal Secretary, Home and including the Director General and Inspector General of Police, Secretary to Government, Personnel and Administrative Reforms Department, Inspector General of Police(Headquarters) and a representative of the Law Department, constituted to enquire into the matter on a representation received from the members of the Principal Police Service of the State, that the members of the Armed Reserve and Armed Police Battalion

get promoted as Assistant Commandants much earlier than the members of the general executive wing of the Police and that after being convinced that the equation was not proper, the State Government which is the competent authority has recalled the equation. However the respondents have indicated that the impugned order would not affect the selection made for the year 2000 on 13.12.2000 in which the names of the applicants 1 to 3 have been placed before the Selection Committee at Sl.Nos. 7 to 9 and the 4th respondent not coming within the zone of consideration, his name has not been placed for consideration.

O.A.67/2001

8. The applicant Sri P.S.Abdul Rassak was appointed as Armed Police Inspector in the Armed Police Battalion in Kerala by order dated 24.2.1984. He was promoted as Assistant Commandant by order dated 5.4.1990 and was confirmed. He was thereafter promoted as Deputy Commandant and having completed 8 years of service as Assistant Commandant, he has become eligible to be considered for induction into the I.P.S. in terms of I.P.S.(Appointment by Promotion)Regulation. Finding that the impugned order dated 25.9.2000(Annexure A-17) in this case would block his chance for induction into the I.P.S., the applicant has filed this application seeking to set aside the impugned order and for appropriate direction to the 1st respondent to consider the applicant for appointment by promotion to the Indian Police Service alongwith Deputy Superintendent of Police in Branch I of Kerala Police Service from the date of his entitlement

without having regard to the impugned order. The learned Government Pleader Sri C.A.Joy appearing for the State stated that such issue involved in this case is the same as that involved in O.A.1107/2000, no separate reply statement need be filed and the case would be argued on the basis of the reply filed in that case.

9. The 6th respondent, the Union of India, has filed a statement indicating that as the equivalence is to be declared by the State Government, the contention of the State Government may be considered for a disposal of the application.

O.A.491/2001

10. The applicants 1 to 3 were recruited as Assistant Commandants in the Kerala Armed Police Battalion on consideration of they being eminent volleyball and badminton players. All the 3 of them have since been promoted as Deputy Superintendents of Police and are awaiting consideration for induction in to the I.P.S. in accordance with the provisions of Indian Police Service(Appointment by Promotion)Regulation. It was while so that the applicants came across the impugned order dated 25.9.2000(Annexure A19) in this case taking away the equation of the Armed Police and Armed Reserve with the the Principal Police Service of the State for the purpose of promotion to the I.P.S. Aggrieved the applicants have filed this application jointly praying that the impugned order may be set aside and the first respondent be directed to consider the applicants

for appointment by promotion to the Indian Police Service along with Deputy Superintendent of Police in Branch I of Kerala Police Service from the date of their entitlement without regard to Annexure A19. The 6th respondent alone has filed a statement in which it is stated that for a deciding the issue in this case, the contentions of the State Government has got to be considered. On behalf of the State of Kerala, Sri Joy, Govt. Pleader stated that as the issue involved in this case as also in O.A.1107/2000 are identical, it is not necessary to file a separate reply statement in this case and the matter can be argued on the basis of the reply filed in O.A.1107/2000.

11. We have gone through the pleadings in these cases very carefully and heard the arguments of Sri Pirappankode V.Sreedharan Nair, learned counsel for the applicant in O.A.1107/2000, Sri O.V.Radhakrishnan, learned counsel for the applicant in O.A.67/2001 and Sri Mohan Jacob George, learned counsel for the applicant in O.A.491/2001 and Sri C.Rajendran, SCGSC, Sri C.A.Joy, Govt.Pleader and Sri K.Shri Hari Rao, ACGSC for the respondents.

12. The short question that arises for consideration in all these cases is "whether the order dated 25.9.2000 of the first respondent dispensing with the equation of the Armed Police and Armed Reserve with the Principal Police Service of the State and also the Assistant Commandants with the Deputy Superintendent of Police for the purpose of promotion to the I.P.S. is valid and sustainable ?". It is well settled by now that administrative decisions shall not be

appointment to the I.P.S. a distinction is made between principal police service and other duly constituted police services. The equation therefore is mandatory, and cancellation of the equation has no legal consequence and its validity has to be considered on the other grounds raised in the pleadings.

14. Sri Pirappancode V.Sreedharan Nair, Sri O.V.Radhakrishnan and Sri Mohan Jacob George argued that the Government of Kerala has in exercise of powers under Regulation 2 (j) of the I.P.S.(Appointment by Promotion) Regulations,1955 declared the posts of Assistant Commandants and above in the M.S.P and S.A.P battalions in the State as equivalent to the Principal Police Service of the State, namely, the Deputy Superintendent of Police, for the purpose of Rule 4 of the I.P.S.(Appointment by Promotion) Regulations,1955 by letter dated 22.1.1965 and the Malabar Special Police and the State Armed Police Service as equivalent to the Principal Police Service of the State and the post of Assistant Commandants and above in the MSP and SAP as equivalent to the post of Deputy Superintendent of Police in the Principal Police Service of the State by letter dated 7.4.65 and the Armed Reserve as equivalent to the Principal Police Service of the State and Assistant Commandants and above in the Armed Reserve as equivalent in status and responsibility to that of Deputy Superintendent of Police of the Principal Police Service of the State by letter dated 23.10.1973, the impugned order dated 25.9.2000 dispensing with the equation on irrelevant considerations is unsustainable in law, arbitrary and made for extraneous

considerations. Learned counsel of the respondents Sri C.Rajendran, SCGSC on the other hand, argued that as the power to declare a duly constituted Police Service as equivalent to the Principal Police Service of the State has been vested in the State Govt., the State Government has got the competence and authority to dispense with the equation being satisfied that the equation made was erroneous. Sri Rajendran argued that as the decision has been taken by the competent authority, no interference is called for. If the decision to dispense with the equation was taken on the basis of relevant material, the Tribunal would not sit in judgment over the wisdom of the decision on the ground of sufficiency or otherwise of the materials. However, if the facts and materials which are considered are not relevant facts and materials and if the relevant facts and materials have been left out of consideration, then the Tribunal would be justified in interfering. By order dated 22.1.65 and 7.4.65(Annexure A12 and A13 in O.A.1107/2000), the Kerala State Govt. had in exercise of powers under Regulation 2(j) of the I.P.S.(Appointment by Promotion)Regulations, 1955 declared the Malabar Special Police and State Armed Police Service as equivalent to the Principal Police Service of the State and the post of Assistant Commandants and above in the M.S.P and S.A.P as equivalent to the post of Deputy Superintendent of Police in the Principal Police Service of the State for the purpose of Rule 4 of I.P.S.(Appointment by Promotion) Regulation, 1955. The Armed Reserve was declared equivalent to the Principal Police Service of the State and Assistant Commandants and above in the Armed Reserve as equivalent in status and responsibility to that of Deputy

Superintendent of Police of the Principal Police Service by order dated 23.10.73(Annexure A14). The source of power for the State Government to declare "any other duly constituted Police Service functioning in the State" as equivalent to the Principal Police Service of the State can be traced to the Indian Police Service(Recruitment)Rules as also to the Indian Police Service(Appointment by Promotion)Regulations, 1955. The definition of the State Police Service contained in the Indian Police Service(Recruitment)Rules 1954 as also the Indian Police Service(Appointment by Promotion)Regulations, 1955 is identical, which reads as follows:-

'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 Island 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;"

It is evident from the above quoted rule that in addition to the Principal Police Service of the State, a member of which normally holds a charge of a sub-division of a district for

the purposes of police administration and includes any other duly constituted police service functioning in a State which is declared by the State Government as equivalent to the principal police service .The equation should be on some reasonable nexus. The State Government when it equated the MSP and SAP and Armed Reserve to the Principal Police Service of the State and the Assistant Commandants as equivalent to the Deputy Superintendent of Police for the purpose of Rule 4 of the I.P.S.(Appointment by Promotion)Regulation, 1955, it should be deemed that the State Government had taken into consideration the nature and level of status, duties and responsibilities of the Police Services and posts before declaring the equation. The cancellation of the equation can be made therefore only on the State Government being satisfied that the nature and level of duties and responsibilities and status of the other duly constituted services were not equal to that of the Principal Police Service of the State. It is borne out by record that the equation of the Armed Police Battalion and Armed Reserve to the Principal Police Service of the State and of the Assistant Commandants in those forces to the Deputy Superintendent of Police of the Principal Police Service of the State have been challenged before the Tribunal more than once by the members of the Principal Police Service of the State. In O.A.318/90, Sri Ramchandra Panicker who was a senior grade Deputy Superintendent of Police in the general executive branch of the Kerala State Police Service had challenged the equation of the Assistant Commandants in the Armed Police Battalion and Armed Reserve and Deputy Superintendent of Police in the Telecommunication

wing to the post of Deputy Superintendent of Police of the Principal Police Service. The Ernakulam Bench of the Tribunal by judgment dated 31.1.92, to which one of us (Hon'ble Sri A.V.Haridasan, Vice Chairman) was a party held that as the State Government are competent to decide about the equivalence and have declared the services as equivalent and as the State Government have found that the equation made during the years 1965, 73 and 79 was satisfactorily working, the claim of the applicants therein for a declaration that the above services and posts were not equivalent to the principal police service of the State has to be rejected and consequently dismissed the application. The State of Kerala had in that case vehemently contended that the equation was made for relevant considerations and worked very satisfactorily. In another case O.A.2155/93 the State Government filed a reply statement (Annexure A23 in O.A.No.1107/2000) wherein it is contended as follows:-

"7. In reply to the grounds it is submitted that none of the same is sustainable in the eye of law nor do the same merit any consideration. It is submitted that the posts in Armed Battalion and Telecommunication were declared equivalent to the posts of Dy.Supdts. of Police in the Principal Police Service as per the provisions of the AIS (Appointment by promotion) Regulations, 1955 and the practice is continuing since 1965. The system has been working quite satisfactorily all the years, and the officers from the Armed Police and Telecommunication as a class, are in no way inferior to those in the General Executive wing so far as merit and ability are concerned. The State Government are competent to declare any duly constituted police service in the state as equivalent to the Principal Police Service of the State for the purpose of regulation 2(i)(j)(ii) of the promotion regulations."

One Sri G.Janardhanan Nair, Deputy Superintendent of Police had filed O.A.520/1995 seeking to set aside the orders of

the State Government declaring that MSP, SAP and Armed Reserve Services as equivalent in status and responsibility to that of Deputy Superintendent of Police in the Principal Police Service of the State, the Tribunal disposed of the application directing the State Government to examine the matter afresh and to take a decision in spite of the contention raised by the State Government that the equation was made on valid grounds and did not call for reconsideration. In obedience to the direction contained in the order in the above said Original Application, the State Government had as late as on 24.4.96 issued an order(Annexure A18 in O.A.1107/2000) in which it was stated as follows:-

"4. Government have, accordingly, examined the matter in detail. The equation of officers of M.S.P. and A.P. Battalion and Armed Reserve with the officers of the General Executive Branch was made many years ago, and it has not caused any serious difficulties so far. Government propose to take special steps hereafter to ensure that these officers are not found wanting in any respect in the discharge of their duties, when assigned to senior positions in the IPS. So far as these services are concerned, therefore, the declaration of equivalence does not require reconsideration.

5. However, the declaration of equivalence in respect of the Telecommunication Unit deserves to be reviewed. Accordingly, the orders issued in G.O.(MS) 651/79/GAD dated 15.12.1979 declaring the posts of Deputy Superintendent of Police and above in the Telecommunication Unit as equal in status and responsibility to that of Deputy Supdt. of Police in the Principal Police Service are hereby cancelled with prospective effect."

In the reply statement filed by the second respondent, i.e., the State of Kerala, it has been conceded that though the equation was challenged before the Tribunal, the State Government contested the cases and considering the

representations of the members of the Principal Police Service of the State by order dated 24.4.1996 after due examination, it was held that the equation given to AP and Armed Reserve did not require any reconsideration. It is therefore evident from the undisputed facts of the case that the equation of the Armed Police Battalion and Armed Reserve to the Principal Police Service of the State and of the post of Assistant Commandants in those services to be equivalent in status and responsibility to the post of Deputy Superintendent of Police in the Principal Police Service of the State was found to be in order and working quite satisfactorily even when the order dated 24.4.96 was issued by the State Government. The reasons for cancellation of the equation stated in the impugned order as also explained in the reply statement of the second respondent are that the Kerala Police Service Officers Association represented to the Government that the orders equating the officers of the Armed Police Battalion and Armed Reserve with the Deputy Superintendent of Police in the general executive for promotion to the I.P.S. be reviewed and cancelled as the Armed Police and Armed Reserve are separate units with distinct duties and responsibilities, independent of the general executive, that the Inspectors in the Armed Police and Armed Reserve get promotion as Assistant Commandants earlier than the Inspectors of the general executive branch of the State Police Service, that the officers of the Armed Police and Armed Reserve have to be given 2 years training, if they are appointed to the I.P.S. and on examination of the recommendation of the Committee appointed to enquire into the matter, the Government accepted the findings of

the Committee, that the duties and responsibilities of the officers of the Armed Police and Armed Reserve are entirely different from those in the general executive, that the Armed Police officers are also not put in charge of sub-divisions of police administration and that therefore the Government ordered that the equation of the Armed Police and Armed Reserve with the Principal Police Service of the State as also the Assistant Commandants with Deputy Superintendent of Police for promotion to I.P.S. be dispensed with. Sri Pirappancode V.Sreedharan Nair with considerable tenacity argued that the considerations were totally extraneous to the point. The relevant considerations were whether the officers of the Armed Reserve and Armed Police were discharging police functions and whether the level of duties and responsibilities of the Assistant Commandants are equal to that of Deputy Superintendent of Police in the general executive wing. These relevant factors having not been considered and irrelevant factors like the comparative earlier promotion in the Armed Police and Armed Reserve than in the general executive branch of the police and the necessity of giving training to members of the Armed Reserve and Armed Police Battalion having been made the reason for cancellation of the equation, the learned counsel argued that the decision is arbitrary, irrational and vitiated. The learned counsel further argued that the decision has been taken only at the behest of the Police Officers Association to please them on political considerations while for more than 3 decades, the equation worked very satisfactorily even according to the State Government requiring no reconsideration. The impugned

order is therefore an arbitrary order calling for its quashment at the hands of the Tribunal, argued the learned counsel. We find considerable force in this argument of the learned counsel. To say that the equation is required to be cancelled, the State Government has in the impugned order stated that the Armed Police officers are not put in charge of sub-divisions for police administration and that the duties and responsibilities of the officers in the Armed Police and Armed Reserve are entirely different from those in the general executive wing. While providing for the State Government to declare any other duly constituted police service functioning in the State as equivalent to the Principal Police Service of a State in Indian Police Service (Appointment by Promotion) Regulations, 1955 as also the I.P.S. (Recruitment) Rules, 1954, the Central Govt. was conscious that only a member of the Principal Police Service of the State would normally hold charge of a sub-division of a district for the purpose of police administration. Therefore that the members of the Armed Reserve and Armed Police Battalion do not hold charge of a sub-division of a district can not at all be a relevant consideration for deciding whether their service is equal in status and responsibility to that of the post of Deputy Superintendent of Police in the Principal Police Service of the State. This Bench of the Tribunal had in its order in O.A.318/90 held that the officers of the Armed Police Battalion are discharging police functions in maintaining law and order in emergent situation and that the claim of the applicant in that case that the equation is baseless cannot be sustained. The State Government itself has in it's order dated 24.4.96

held that the equation was perfectly all right, that no difficulty had been experienced so far and that the Government had taken special steps to ensure that these officers are not wanting in any respect in the discharge of their duties when put in senior posts in the I.P.S. The contention that because the officers of the Armed Police are not put in charge of the sub-division for police administration and that their duties are different from the general executive wing are not proper reasons for cancelling the equation. The duties and responsibilities of officers in one branch of the police would naturally be different from the duties and responsibilities in other branches. That is the reason why a declaration of equivalence is to be made by the State Government considering the nature and level of the duties and responsibilities. There is no case for the second respondent either in the impugned order or in the reply statement that the nature and level of duties and responsibilities of the Assistant Commandants of the Armed Police and Armed Reserve are in any way inferior in comparison to the duties and responsibilities of the Deputy Superintendent of Police in the general executive. Since the officers of the Armed Reserve and Armed Police are discharging police functions, with 18 months training imparted to the officers whose names are included in the select list, they become well-equipped to be put in charge of police administration of a sub-division and even according to the second respondent the officers inducted to I.P.S. from these services have not been found wanting in abilities. That the officers of the Principal Police Service of the State are at a disadvantageous position in

regard to promotional chances and that the Inspectors of AR and AP get promotion as Assistant Commandants comparatively earlier also is not a relevant consideration in declaring equivalence. Further with a view to do away with the disparity in opportunity for promotion in the executive branch of the Police Department as against the Armed Reserve, the Government has by order dated 7.11.95(Annexure A18 in O.A.67/2001) accorded sanction for creation of 44 posts of Deputy Superintendent of Police and to upgrade 29 posts of Circle Inspectors of Police . With this dispensation one of the reasons stated for cancellation of the equivalence, namely the disparity in promotional avenue to the Inspectors of general executive branch of the State Police, though it is not a valid reason, has been done away with. We therefore do not find any valid reason for the State Government to issue the impugned order dispensing with the equation of the AR and AP with the Principal Police Service of the State and the Assistant Commandants of these services as equal in status and responsibility to the Deputy Superintendent of Police in the general executive branch of the State Police Service.

15. We find that while the State of Kerala has been till very recently consistently holding the view that the equation of the AR and AP to the Principal Police Service of the State and the Assistant Commandants of these services to the Deputy Superintendent of Police required no reconsideration on the ground that the system has been working satisfactorily for more than 3 decades, the sudden

change in the attitude was motivated only on the complaints of the State Police Service Officers Association. The State Police Service Officers Association representing the officers of the general executive branch of the police would naturally like to exclude the members of the other duly constituted police services of the State from sharing the opportunity to be inducted into the coveted Indian Police Service, but that is no justification for the State Government to suddenly change its view on irrelevant considerations and to cancel the equation. The State Government failed to note that the Indian Police Service (Recruitment)Rules and I.P.S.(Appointment by Promotion)Regulations provide for considering the officers of the other duly constituted police services of the State than the members of the Principal Police Service of the State who would normally hold charge of a sub-division of a district for the purpose of police administration, provided the State Government declare such services to be equal to the Principal Police Service of the State. We find that the impugned order cancelling the equation of the Armed Reserve and Armed Police in the State of Kerala to the Principal Police Service of the State and the Assistant Commandants to the Deputy Superintendent of Police in the Principal Police Service of the State was vitiated, was made arbitrarily for extraneous considerations and is liable to be set aside.

16. In the result the impugned order dated 25.9.2000 of the Government of Kerala dispensing with the equation of the Armed Police and Armed Reserve with the Principal Police Service of the State and the Assistant Commandants with

Deputy Superintendent of Police for the purpose of promotion to I.P.S., is set aside. The respondents are directed to consider the applicants in these cases for appointment to the I.P.S. under I.P.S.(Appointment by Promotion)Regulations, 1955 in their turn. There is no order as to costs.

Sd/-
(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER

Sd/-
(A.V.HARIDASAN)
VICE CHAIRMAN

/njj/

: 26 :

List of Annexures referred to in the Order:

O.A.1107/2000

1. Annexure A12 True copy of the G.O.(Ms) No.93 dated 22.1.1965.
2. Annexure A13 True copy of the G.O.(Ms) No.372 dated 7.4.1965.
3. Annexure A14 True copy of the G.O.(Ms) No.651/79/GAD dated 15.12.1979.
4. Annexure A18 True copy of the G.O.(Ms) No. 133/97/GAD dated 24.4.96.
5. Annexure A23 True copy of the counter affidavit filed by the State of Kerala, the 2nd respondent in M.A.265/94 in O.A.2155/93 dated 7.3.94.
6. Annexure A29 True copy of the G.O.(Ms) No. 534/2000/GAD dated 25.9.2000.

O.A.67/2001

1. Annexure A17 True copy of the G.O.(MS) No.534/2000 /GAD dated 25.9.2000 of the 1st respondent.
2. Annexure A18 True copy of G.O.(MS) No.351/95/Home dated 7.11.1995 ,

O.A.491/2001

1. Annexure A19 True copy of G.O.(MS) No.534/2000/GAD dated 25.9.2000 of the 1st respondent.

CERTIFIED TRUE COPY

Date

Deputy Registrar