

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

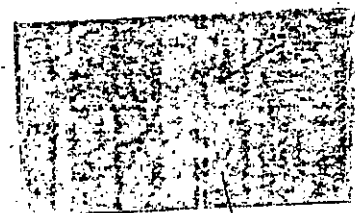
CALCUTTA BENCH, CALCUTTA

O.A. No. 351/0001955 of 2018

M.A. No. 351/00972/2018

IN THE MATTER OF :

1. **ABDUL SALAM**, son of Late N. Kader,
aged about 48 years, residing at
Austinabad, District : South Andaman,
Pin-744103 and working to the post of
Warder of District Jail, Prothrapur under
Andaman & Nicobar Administration, Port
Blair;
2. **M. UMMER**, son of Late M. Moideen,
residing at Mannarghat, District South
Andaman, Pin-744206 and working to
the post of Head Warder in the District
Prison, Prothrapur, South Andaman
under the Superintendent (Prison),
District Prison, Prothrapur under
Andaman and Nicobar Administration,
Port Blair;
3. **Mr. V.K. AZIZ**, son of Late Ali Ahmed,
aged about 59 years, residing at

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Manarghat, Post Office- Wimberlygunj,
South Andaman, Pin-744206 and working
to the post of Head Warder in the
District Prison, Prothrapur, South
Andaman under the Superintendent
(Prison), District Prison, Prothrapur under
Andaman and Nicobar Administration,
Port Blair.

4. N.P. ABDUL KASIM, son of Late N. P.
Kunjan, residing at Stewertgunj, District-
South Andaman, Pin- 744206 and
working to the post of Warder in the
District Prison, Prothrapur, South
Andaman under the Superintendent
(Prison), District Prison, Prothrapur under
Andaman and Nicobar Administration,
Port Blair.

5. JASVIR SINGH, son of Late Heera Singh,
residing at Jail Complex, District- South
Andaman, Pin- 744206 and working to
the post of Warder in the District Prison,
Prothrapur, South Andaman under the
Superintendent (Prison), District Prison,

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Prothrapur under Andaman and Nicobar
Administration, Port Blair.

6. Mr. AUGUSTIN, son of Late Jarlet,
residing at Prothrapur, District- South
Andaman, Pin- 744206 and working to
the post of Warder in the District Prison,
Prothrapur, South Andaman under the
Superintendent (Prison), District Prison,
Prothrapur under Andaman and Nicobar
Administration, Port Blair.
7. K. SHOUQUAT ALI, son of Late K.
Aboobacker, residing at Lamba Pahad,
Wimberlygunj, District- South Andaman,
Pin- 744206 and working to the post of
Warder in the District Prison, Prothrapur,
South Andaman under the
Superintendent (Prison), District Prison,
Prothrapur under Andaman and Nicobar
Administration, Port Blair.
8. M. SAYEED, son of Late M. Koya Kutty,
residing at Mannarghat, District- South
Andaman, Pin- 744206 and working to

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the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

9. B.C. HOWALADAR, son of Shri N.C. Howaladar, residing at Jail Complex, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

10. SANTHOSH KUMAR TRIPATHI, son of Shri R.S. Tripathi, residing at Bambooflat, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.
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11. G. VALLABHA RAO, son of Late G. Appanna, residing at Jail Complex, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

12. SAW SHWE, son of Late Saw Mounng Mounng, residing at Jail Complex, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

13. MOHAMMED HANIFA, son of Shri M. Hamza, residing at Aberdeen Village, District- South Andaman, Pin- 744206 and working to the post of Warder in the

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District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

14. **GULAB SINGH**, son of Late Shri Attar Singh, residing at Cattlegunj, District South Andaman, Pin-744103 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman & Nicobar Administration, Port Blair.

15. **SHRI JAGNARAYAN**, son of Sri Jay Narayan, aged about 46 years, working to the post of Warder in the Sub Jail, Car Nicobar, residing at Jail Complex Prothrapur, Port Blair, Pin-744103.

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16. MUSTAKIM SAMAD, son of Shri Abdul Samad, residing at Aberdeen Village, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

17. MOHAMMED AYUB, son of Late Elahi Bux, residing at Dollygunj, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

18. L. G. AKASH, son of Shri Lachman, residing at Pathar Gudda, District- South Andaman, Pin- 744206 and working to the post of Head Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District

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Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

19. MUNESH KUMAR, son of Shri Tara Chand, residing at Jail Complex, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

20. P. AHMAD, son of Late P. Mohammed, residing at Junglighat, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

21. GOPAL BIHARI, son of Late Rashoo Bihari, residing at Hasmatatabad, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison,

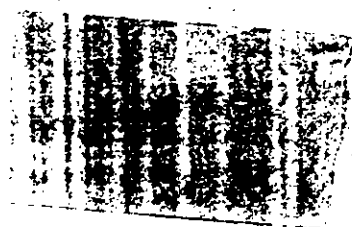
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Prothrapur, South Andaman under the Superintendent (Prison), District Prison Prothrapur under Andaman and Nicobar Administration, Port Blair.

22. G. RAMA RAO, son of Late G. Appanna, residing at Jail Complex, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

23. Ms. M. KALA, daughter of Late Muthu Raman, residing at Prothrapur, District- South Andaman, Pin- 744206 and working to the post of Female Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

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24. Smt. GLADYS, daughter of Late Atkinson, residing at Prothrapur, District- South Andaman, Pin- 744206 and working to the post of Female Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

25. Smt. FAITH TITUS, daughter of Late Shru Titus, residing at Prothrapur, District- South Andaman, Pin- 744206 and working to the post of Female Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

26. SMT. JYOTHSNA BAIDYA, daughter of Late Khirod Baidya, residing at Garacharma, District- South Andaman, Pin- 744206 and working to the post of Female Warder in the District Prison, Prothrapur, South Andaman under the

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Superintendent (Prison), District Prison,
Prothrapur under Andaman and Nicobar
Administration, Port Blair.

27. SMT. ANITHA KUMARI, wife of Anil Kumar,
residing at Bargat Line, District- South
Andaman, Pin- 744206 and working to
the post of Female Warder in the District
Prison, Prothrapur, South Andaman under
the Superintendent (Prison), District
Prison, Prothrapur under Andaman and
Nicobar Administration, Port Blair.

28. SMT. R. LAXMI, daughter of Late M. Raju,
residing at Jail Complex, District- South
Andaman, Pin- 744206 and working to
the post of Female Warder in the District
Prison, Prothrapur, South Andaman under
the Superintendent (Prison), District
Prison, Prothrapur under Andaman and
Nicobar Administration, Port Blair.

29. SREE KISHEN, son of Late Ram Kishen,
residing at Garacharma, District- South
Andaman, Pin- 744206 and working to

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the post of Head Warder in the Sub-Jail, Campbell Bay, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

30. JENO VICTOR BARA, son of Late Robert Bara, residing at Jail Complex, District-South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

31. PERMINDER SINGH, son of Shri Brij Pal Singh, residing at Jail Complex, District-South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.


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32. SHYAMAL DAS, son of Late K. N. Das, residing at Manglutang, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

33. P. ABDUL LATHEEF, son of P. Hassan, residing at Wimberlygunj, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

34. MOHAMMED NISAMUDEEN, son of Shri Usman, residing at Wimberlygunj, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent

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(Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

35. DINESH LALL, son of Late Suraj Lall, residing at Naya Gaon, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

36. PRABHAKARAN, son of Shri Karuppaswamy, residing at New Pahargaon, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

37. K. RAVI KUMAR, son of Late Dillay Rao, residing at Dollygunj, District- South

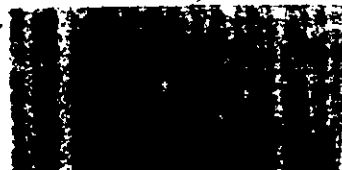
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Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

38. SMT. SUDHA ROY, wife of Late Roy, residing at Shadipur, District- South Andaman, Pin- 744206 and working to the post of Female Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

39. SHOUQUAT ALI, son of Late Sayeed Ali, residing at Marine Hill, District- South Andaman, Pin- 744206, Ex-Warder, and now working to the post of LGC in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

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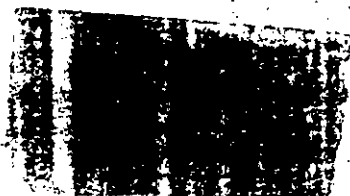


40. SMT. AMINA BIBI, wife of Shri C.A, Aboobacker, residing at RGT Road, District- South Andaman, Pin- 744206 and working to the post of Female Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

41. MOHAMMED SALIM, son of Late Elahi Bux, residing at Dollygunj, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

42. S. Shibu, son of Shri M. Soma Sundaram, residing at Jail Complex, Prothrapur, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South

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Andaman under the Superintendent
(Prison); District Prison, Prothrapur under
Andaman and Nicobar Administration,
Port Blair.

43. K. ZAKIR HUSSAIN, son of Late K.
Mohammed, residing at Mannarghat,
District- South Andaman, Pin- 744206
and working to the post of Warder in the
District Prison, Prothrapur, South
Andaman under the Superintendent
(Prison); District Prison, Prothrapur under
Andaman and Nicobar Administration,
Port Blair.

44. CHANDRA SEKHAR SINGH, son of Shri
Mahesh Singh; residing at Jail Complex,
District- South Andaman, Pin- 744206
and working to the post of Warder in the
District Prison, Prothrapur, South
Andaman under the Superintendent
(Prison); District Prison, Prothrapur under
Andaman and Nicobar Administration,
Port Blair.

45. Shri P. R. PRAVEEN KUMAR, son of Late T. Pusparajan, residing at Jail Complex, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

46. UNNI KRISHNA PILLAI, son of Shri Mohan Dashrat, residing at Stenwartganj, Ferrargunj, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

47. SHRI TATA RAO MAILAPALLI, son of Raja Rao, residing at Dairy Farm, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South

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Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

48. M. ABDUL NASIR, son of Shri M.S. Alvi, residing at Tapu Basti, Stewertgunj, District- South Andaman, Pin- 744206, Ex-Warder of the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair and now working to the post of LGC in GGSS School, Port Blair under Andaman & Nicobar Administration.

49. SHRI BALA SUBRAMANIAM, son of Late S. Rakku, residing at Burmanallah, District- South Andaman, Pin- 744206 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under
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Andaman and Nicobar Administration

Port Blair.

50. ANWAR AHMED, son of Late Sanaullah, residing at Dollygunj, District- South Andaman, Pin- 744206 and working to the post of Warder in the Sub-Jail, Maya Bunder, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

51. SHRI CHETAN KUMAR, son of Shri Anant Ram, residing at Chanakyapuri, New Delhi, Ex-Warder of the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair and presently working to the post of LGC in DRC, New Delhi.

52. SHRI P. ABDUL RAZAK, son of Late P. Mohammed, residing at Bambooflat, District- South Andaman, Pin- 744206

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and working to the post of Head Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

53. BISHESH RAO, son of Shri B. Jogthatha, residing at Prem Nagar, District- South Andaman, Pin- 744102 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

54. AJAY PRASAD, son of Shri Lalta Prasad, residing at New Pahargaon, District- South Andaman, Pin- 744105 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

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55. **MOHAMMED ABDUL RASHEED**, son of Shri M.T. Aboobacker, residing at Bambooflat, District South Andaman, Pin-744107 and working to the post of Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

56. **MOHAMMED IQBAL**, son of Late Elahi Bux, residing at Dollygunj, District South Andaman, Pin-744206 and working to the post of Chief Head Warder in the District Prison, Prothrapur, South Andaman under the Superintendent (Prison), District Prison, Prothrapur under Andaman and Nicobar Administration, Port Blair.

57. **SHRI CYRIL**, son of Shri Arnold, aged about 50 years, residing at Jail Complex, Prothrapur, Port Blair-744103 and working to the post of Warder in the Sub Jail, Mayabunder.

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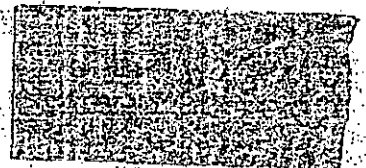
58. **SHRI ABRAHAM**, son of Shri Vame Elkul, aged about 49 years, residing at Jail Complex, Prothrapur, Post Blair-744103 and working to the Post of Warder in the District Jail, Prothrapur, Port Blair.
59. **P.K. GHOSH**, son of Late D.C. Ghosh, aged about 50 years, residing at Shadipur, near Old Herald, Pin-744106 and working to the post of Head Warder in the Sub Jail, Car Nicobar.
60. **SHRI R.T. SELVAM**, son of M. Ratnam, aged about 50 years, residing at South Point, Port Blair, Pin-744106 and working to the post of Warder in the District Jail, Prothrapur, Port Blair.

... APPLICANT

VERSUS

1. **UNION OF INDIA**, service through the Secretary, Ministry of Home Affairs,

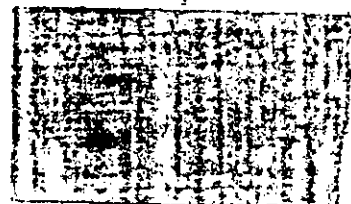
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Government of India, South Block, New
Delhi-110001.

2. THE ANDAMAN & NICOBAR
ADMINISTRATION, service through the
Chief Secretary, having its office at
Secretariat, Port Blair-744101
3. THE CHIEF SECRETARY, Andaman &
Nicobar Administration, Secretariat, Port
Blair-744101;
4. THE INSPECTOR GENERAL (PRISON),
Andaman & Nicobar Prison Department,
Andaman & Nicobar Administration,
Secretariat, Port Blair- 744101
5. THE SUPERINTENDENT (Prison), District
Prison, Prothrapur, Andaman & Nicobar
Administration, District South Andaman,
Port Blair- 744103.
6. THE DEPUTY SECRETARY, Ministry of
Home Affairs, service through the

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Andaman & Nicobar Administration,
Secretariat, Port Blair- 744101

7. THE SECRETARY, Government of India,
Ministry of Finance, Department of
Expenditure, New Delhi-110011.

Respondents.

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 351/1955/2018
M.A. 351/972/2018

Date of order: 5.11.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

ABDUL SALAM & ORS.

VS.

UNION OF INDIA & ORS. (M/o Home Affairs)

For the Applicant : Mr. P.C. Das, Counsel

For the Respondents : Mr. R. Haldar, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicants have approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

"8.a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 as the applicants have a common grievance;

b) To quash and/or set aside the impugned order dated 31st July, 2018 issued by the Superintendent (Prison) District Prison, Prothrapur, Andaman & Nicobar Administration, District South Andaman, Port Blair - 744103 by which the claim of the applicants regarding grant of pay and allowances at par with those of equivalent ranks in the Andaman and Nicobar Police Department has been rejected by violating the Gazette Notification dated 23rd June, 2005 under para 25.13 being Annexure A-13 of this original application;

c) To quash and/or set aside the impugned order dated 27th September, 2011 issued by the Deputy Secretary, Government of India, Ministry of Home Affairs after the order passed by this Hon'ble Tribunal in OA No. 111/AN/2010, OA No. 112/AN/2010, OA No. 113/AN/2010 OA No. 115/AN/2010, O.A. No. 116/AN/2010 and O.A. No. 198/AN/2010 which was communicated to the present applicants vide office letter dated 6th August, 2018 being Annexure A-14 of this original application by which the claim of the applicants has been rejected by not considering the recommendation made by the Justice Mulla Committee Report as well as answers given by the Minister of State in the Parliament and also not considering the Gazette Notification published by the

Andaman and Nicobar Administration dated 23rd June, 2005 and rejected the claim of the applicants on the ground that there is no recommendation of 7th Central Pay Commission and 6th Central Pay Commission but this is not the case of 7th Central Pay Commission and 6th Central Pay Commission but it is a case of pay anomaly vis-a-vis staff of the Prison Department as well as staff of the Police Department of Andaman Nicobar Administration and such issue has been decided by the competent court of law and the rules and regulations governing in the field is absolutely in favour of the applicants and bypassing of these things this impugned order has been issued by the Ministry which may be liable to be quashed and/or set aside in the eye of law.

d) To pass an appropriate order directing the respondent authority to grant pay scale of Rs. 3050-4590 to the post of Warder with effect from 01.01.1996 when 5th Central Pay Commission came into force or with effect from the initial date of appointment of the respective applicants along with all arrear consequential benefits as per the gazette notification dated 23rd June, 2005 under para 25.13 and as per the Report of the Mulla Committee and recommendation of Justice Mulla Committee vide para 2.24 and in terms of the Manual Volume under para 24.44-10 by setting aside and/or quashing the impugned order dated 31.7.2018 issued by the Andaman and Nicobar Administration and the impugned order dated 27.09.2011 issued by the Ministry of Home Affairs which was communicated to the applicant No. 1 vide office letter dated 6th August, 2018 being Annexure A-13 and A-14 of this original application."

2. An M.A. bearing No. 351/00972/2018 arising out of the said O.A. has been filed, praying for joint prosecution. On being satisfied that the applicant share a common interest and are pursuing a common cause of action, the M.A. is allowed under Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987, and, is disposed of accordingly.

3. The facts of the matter, in a narrow compass, are as follows:-

The applicants have challenged an order dated 31.7.2018 read with an order dated 27.9.2011, the latter being issued by the Ministry of Home Affairs, Government of India, whereby the proposal of the A&N Administration (forwarded in compliance to Tribunal's orders dated 31.9.2010 in O.A. Nos. 111, 112, 113, 115 of 2010 and that dated 6.9.2010 in O.A. No. 116 of 2010) was rejected.

The applicants have claimed that the authorities have violated the terms of gazette notification dated 23.6.2005 (Paragraph 25.13 of the same in Annexure A-4 to the O.A.). The said paragraph 25.13 reads as follows:-

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"25.13 Salaries and other employment benefits should not be arbitrarily fixed but should be related to the work to be performed in a modern correctional system, which is complex and arduous and is in the nature of an important social service. The Prison staff should be paid salaries and allowances at par with those of equivalent ranks in the A & N Police Department."

The respondent authorities had referred the matter to the Ministry of Home Affairs on earlier occasions, with particular reference to paragraph 24.44.10 of the notification dated 23.6.2005 whereby certain equivalent status has been identified between the officials of the Prison Department and that of the Police Department of the A&N Administration.

While the Ministry of Home Affairs had rejected the prayer of pay parity in the context of equivalence between staff of Prison/Jail of Delhi with that of Delhi Police, the matter in the specific context of A & N Administration, however, remains to be decided with finality.

4. The issue of pay parity has been variously adjudicated by the Tribunal in O.A. No. 36/AN/96 wherein the applicants, who were the Prison staff of the A & N Administration had been allowed revised pay scale from the dates from which their counterparts in Tihar Jail had obtained the said benefits. Thereafter, in O.A. No. 93/AN/99, certain applicants had approached the Tribunal for grant of pay scale as granted to the Police personnel by the Pay Commission and the Tribunal had directed the respondents to accord benefits of the judgment in O.A. No. 36/AN/96 upon reference, if necessary, to be made through Government of India to the Home Ministry and the Finance Department.

In another O.A. No. 49/AN/2004, the respondents therein were directed to consider the applicants' claim in the light of judgment in O.A. No. 93/AN/99 and to grant benefits to similarly circumstanced applicants. Thereafter, while disposing of O.A. No. 42/AN/2007 and O.A.

No. 43/AN/2007, the Tribunal directed that there should be no discrimination between the applicants thereto in granting the benefits in O.A. No. 93/AN/99. According to the applicants, despite such orders of the Tribunal, the discrimination in pay scale accorded to the staff of the prison department and that enjoyed by those in Police continue to remain. According to the applicants, the Constables, Head Constables and the Assistant Sub-Inspectors of the Police Department are enjoying a revised scale of Rs. 3200-4900/-, Rs. 4000-6000/- and Rs. 4500-7000/- respectively which is higher than that enjoyed by the counterpart staff in the prison department.

5. The present set of applicants had approached the Tribunal in O.A. No. 111/AN/2010, 112/AN/2010, 113/AN/2010, 115/AN/2010, 116/AN/2010 and 198/AN/2010, whereupon the Tribunal had directed the respondents to consider and to settle their cases with an appropriate order.

That applicant No. 1 had also represented on 7.2.2018 and 12.4.2018 to the competent respondent authorities but the respondent authorities, had, in response, issued a speaking order on 31.7.2018 in which the earlier contentions of the Home Ministry, Government of India dated 27.9.2011 was only reiterated and, accordingly, aggrieved with the inaction of the respondent authorities, the applicants have approached the Tribunal.

6. The moot issue in this matter is whether the prison staff of A&N Administration are entitled to the same pay scale as enjoyed by the staff of the Police Department.

7. In this context, the speaking order of the respondent authorities dated 31.7.2018 (Annexure A-13 to the O.A.) issued in response to

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representation dated 12.4.2018 (Annexure A-12 to the O.A.) is referred to and is reproduced as below:-

F.No.2-117/Estt/Jail/2015/672
ANDAMAN & NICOBAR ADMINISTRATION
OFFICE OF THE SUPERINTENDENT (PRISON)
DISTRICT PRISON
PROTHRAPUR
PORT BLAIR

Dated 31st July, 2018

To,

Shri Abdul Salam, LGC,
Directorate of Sports & Youth Affairs,
Andaman & Nicobar Administration,
(Ex- Warder).

Sub: - Grant of Pay Scale and Allowances at par with A & N Police Constable - Reg.

With reference to your letter dated 12/4/2018 on the subject cited above in this regard it is to state that the Guarding Staff of this Department filed an application before the Hon'ble CAT in O.A. No. 198/2010 in which Hon'ble CAT in its order.

To consider and settle the case of the applicant and pass an appropriate order within a period of six months from the date of receipt of copy of the OA, representation, this Order also the relevant documents produced in this OA to the concerned/competent authority forthwith. The OA is accordingly disposed of.

Whereas, OA Nos 111, 112, 113, 115 of 2010 were filed by Shri Jaiho Victor Bara & Others, Jail Warders, Shri M. Ummer & Ors, Jail Warders, Shri Abdul Salam & Ors, Jail Warders and Shri Munesh Kumar & Ors, Jail Warders respectively in the Hon'ble CAT seeking direction to the respondent authorities in the Police Department as per the 6th Pay Commission recommendation, to the applicants, and to grant pay scale of Rs. 3050-4500 w.e.f. 2004 with all consequential benefits as had been done in the case of the Police Constable in the Police Department. OA No. 116/2010 was filed by Shri Jag Narayan & Others, Jail Warders in Hon'ble CAT seeking direction that an order be passed directing the respondent to extend the benefits of the revised pay scale of Rs. 4500-7000/- to the applicant's w.e.f. 2006 when the 6th Pay Commission revised and fixed the pay scale of Assistant Sub-Inspector in the Police Department with all consequential benefits thereof.

Whereas, Hon'ble CAT in its Orders dated 03/09/2010 in OA Nos. 111, 112, 113, 115 and Order dated 06/09/2010 in OA No. 116 of 2010 directed the respondents as under:-

"To consider and settle the case of the applicant and pass an appropriate order within a period of six months from the date of receipt of copy of this Order. For that purpose, the applicants are directed to forward copy of the OA to the concerned/competent authority forthwith. The OA is accordingly disposed of"

Accordingly, Andaman & Nicobar Administration in view of the aforesaid order sent a proposal vide letter No 41-37/2010- Home/ Jail dated 22nd December, 2010 for consideration of the Central Government and informed vide letter dated 27th April, 2011 that the Sixth CPC had not specifically recommended the Pay scales to Jail Warders as par with Police Constables of ANI.

The matter was accordingly considered by the Central Government and it has been observed that the higher pay scales to Police Personnel in the UT

Administration have been granted based on the specific recommendations of the Sixth Central Pay Commission (SCPC). The Jail Staff of UTs are however, not covered by the said recommendations. Further, the recommendations of the SCPC at Para 7,57,14 of the report in respect of prison Department of UT of Delhi, inter alia include, "Employees in the Prison Department have demanded parity with various posts in Delhi Police. It has been mentioned that upto Third Pay Commission the post in the Prison Department and Police Department had similar Pay scales and in some cases the pay scales of posts in Prison Department were higher but since then parity has been disturbed. It is seen that the functions of Delhi Police are distinct from those of the Prison staff are basically concerned with maintaining law and order whereas Prison Staff are involved in reformation and detention of convicts, under trails and other persons sent to judicial custody. Hence, no comparison can be drawn between various posts in these two cadres. Accordingly, only the corresponding revised running pay bands and grade pay shall be extended to various posts in the Prison Department".

In view of the observation of the Sixth Central Pay Commission with regard to the demand of the employees in prison department of GNCTD (Government of National Capital Territory of Delhi) **seeking parity with various posts in Delhi Police and further keeping in view the fact that upgrading the scale of pay of Police Constable etc. in Delhi Police Department was a conscious decision of the Government which cannot be extended to Prison/ Jail Officials, the claim of the applicants for parity with posts of police Constable etc. cannot be accepted.**

Accordingly, this department has informed to the Guarding Staffs. Further, it is to state that as per the 7th Pay Commission it has not been considered separately for the Jail staffs and Pay scale of the Warder has been fixed accordingly to the General Pay Matrix by this department. Hence the claim made by the applicant cannot be extended at par with the pay scale of the Police Constable.

Yours faithfully,

Sd/-
Superintendent (Prison)

It is also noted here that the Ministry of Home Affairs, Govt. of India had issued their own reasoned orders in response to the Tribunal's directions in O.A. No. 198 of 2010. The operative portion of the said order is extracted as below:-

"7. Whereas, UT Administration further informed that -

- (i) The pay scales of Jail Warders and the Police Constables of ANI were similar and identical till the Third Pay Commission i.e. Rs. 210-270 and that the Fourth Pay Commission recommended two different sets of pay scales for Jail Warders and the Police Constables of ANI i.e. Rs. 800-1150 and Rs. 825-1200 respectively (it was replacement scale for Rs. 210-270).
- (ii) Aggrieved by this, Jail Warders filed Applications bearing Nos. 21/92, 22/92 and 23/92 in the CAT.
- (iii) These cases were disposed of by a common order dated 06/12/1994 directing the Union of India to take a final decision in the matter of grant of higher pay scales to the Warders, Head Warders and Chief Warders at par with the Constables, Head Constables and Asst. Sub-Inspector in the Police Department ANI.

- (iv) Accordingly, Warder, Head Warder and Chief Head Warder were extended the pay scales of Rs. 825-1200, 975-1660 and 1320-2040 respectively w.e.f. 1.1.1986.
- (v) In Fifth Pay Commission, again two different sets of pay scales were recommended i.e. Rs. 2650-4000 and Rs. 2750-4400 to Jail Warders and Police Constables respectively.
- (vi) Police Constables were extended the higher pay scale of Rs. 3050-4590 w.e.f. 1.2.2004 which was further revised to Rs. 3200-4900 w.e.f. 1.1.2006 and placed in the corresponding pay scale of Rs. 5200-20200 - PB-1+ GP Rs. 2000/-.
- (vii) Jail Warders moved the Hon'ble CAT, Bench at Calcutta Circuit at Port Blair by filing O.A. Nos. 111/2010, 112/2010, 113/2010, 114/2010, 115/2010, 116/2010 and 198/2010, which were disposed of by a common order dated 03/09/2010 with the direction to consider the prayer of the applicants.

And whereas, the matter has accordingly been considered by the Central Government and it has been observed that the higher pay scales to Police Personnel in the UT Administration have been granted based on the specific recommendations of the Sixth Central Pay Commission (SCPC). The Jail Staff of UTs are, however, not covered by the said recommendations. Further the recommendations of the SCPC at para 7.57.14 of the report in respect of Prison Department of UT of Delhi, inter alia, include, : "Employees in the Prison Department have demanded parity with various posts in Delhi Police. It has been mentioned that upto Third Pay Commission the post in the Prison Department and Police Department had similar pay scales and in some cases the pay scales of posts in Prison Department were higher but since then parity has been disturbed. It is seen that the functions of Delhi Police are distinct from those of the Prison Staff. The Police are basically concerned with maintaining law and order whereas Prison Staff are involved in reformation and detention of convicts, under trials and other persons sent to judicial custody. Hence, no comparison can be drawn between various posts in these two cadres. Accordingly, only the corresponding revised running pay bands and grade pay shall be extended to various posts in the Prison Department."

9. In view of the observation of the Sixth Central Pay Commission with regard to the demand of the employees in prison department of GNCTD (Government of National Capital Territory of Delhi) seeking parity with various posts in Delhi Police and further keeping in view the fact that upgrading the scale of pay of Police Constables etc. in Delhi Police Department was a conscious decision of the Government which cannot be extended to Prison/Jail officials, the claim of the applicants for parity with posts of Police Constables etc. cannot be accepted."

The order of the A&N Administration dated 31.7.2018 is nothing more than a reiteration of the decision of the Home Ministry dated 27.4.2011.

8. Upon a close perusal of the representation of applicant No. 1 dated 12.4.2018 (Annexure A-12 to the O.A.), it transpires that the applicant has sought the following:-

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- (i) That the matter of pay parity with the police personnel be taken up with the Ministry of Home Affairs for review of the orders of MHA dated 27.9.2011.
- (ii) That, the rules contained in the gazette notification of 2005 is statutorily in force till date. Hence, the authorities have violated their own rule position in discriminating between the two categories of uniformed staff.
- (iii) Jail Warders in other Union Territories in Delhi and Chandigarh are enjoying higher Grade Pay as compared to those in A&N Administration.

What is noteworthy from the above representation is that the applicant had sought a review of the MHA's order and had requested the A&N Administration to take up the matter accordingly with MHA. The Andaman administration, however, merely reiterated the views of MHA of 2011 without apparently taking any steps to prepare a case on behalf of the Prison Personnel for reconsideration of the MHA. Accordingly, the speaking order dated 31.7.2018 was to no purpose.

9. We note that, there have been a series of notifications, recommendations and judicial orders that disapproves any such discrimination.

We therefore, direct as follows:-

The respondent No. 3, who is the Chief Secretary, Andaman & Nicobar Administration, Secretariat, Port Blair, will take necessary actions to obtain from respondent No. 4, who is the Inspector General (Prison), Andaman & Nicobar Prison Department, A&N Administration, a detailed analytical report of the nature of work performed by the Prison staff vis-à-vis that of the Police personnel, parity in their methods of

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recruitment, eligibility, as well as duties and responsibilities of the two categories.

The said report will thereafter be forwarded with suitable recommendations to Respondent No. 1. If the two categories of employees are found to be similarly situated, the Ministry of Home Affairs, Government of India will call for a review of the orders of Ministry of Home Affairs dated 27.9.2011. The respondent No. 1, represented through the Secretary, Ministry of Home Affairs, shall, if so necessary, decide as to whether such pay parity is to be extended to the Prison Staff vis-à-vis their counterparts in Police force in the A&N Administration or recommend necessary consequent actions, in consultation with Respondent No. 1, namely, the Secretary, Government of India, Ministry of Finance.

The entire exercise may be completed within a period of 16 weeks from the date of receipt of a copy of this order.

10. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP