

(2003) 04 KL CK 0047

In the High Court Of Kerala

Case No : O.P. No's. 28995, 29227 etc. of 2001

Chandran

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 04-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Police Service (Appointment by Promotion) Regulations, 1955 — Regulation 2(1)

Citation : (2003) 3 ILR (Ker) 354 : (2003) 2 KLT 567

Hon'ble Judges : P.R. Raman, J; Cyriac Joseph, J

Bench : Division Bench

Advocate : T.P. Kelu Nambiar and P.V. Mohanan, for the Appellant; P.S. Sreedharan Pillai, S.C.G.S.C., Rajan Joseph, A.A.G., Pirappancode V. Sreedharan Nair, S.P. Aravindakshan Pillay and Pirappancode V.S. Sudhir, for the Respondent

Final Decision : Allowed

Judgement

Cyriac Joseph, J.—In all these Original Petitions filed under Articles 226 and 227 of the Constitution of India, the challenge is against the common order passed by the Ernakulam Bench of the Central Administrative Tribunal in O.A.Nos. 1107 of 2000, 67 of 2001 and 491 of 2001, The petitioners herein were not parties to the said Original Applications. O. A. No. 1107 of 2000 was filed by respondents 7 to 10 in O.P. No. 28995 of 2001 (respondents 1 to 4 in O.P. No. 29227/2001). O.A. No. 67 of 2001 was filed by the 7th respondent in O.P. No. 29969 of 2001 (first respondent in O.P. No. 29327/2001). O.A. No. 491 of 2001 was filed by respondents 7 to 9 in O.P. No. 29937/01 (respondents 1 to 3 in O.P. No. 30215/2001). The dispute relates to appointment to the Indian Police Service by promotion of substantive members of the State Police Service.

2. According to Rule 4 of the Indian Police Service (Recruitment) Rules, 1954 (hereinafter referred to as "the Recruitment Rules"), the method of appointment to the Indian Police Service shall be by a competitive examination or by promotion of substantive members of a State Police Service. According to Rule

9(1) of the Recruitment Rules, the Central Government may on the recommendation of the State Government concerned and in consultation with the Union Public Service Commission recruit to the Indian Police Service persons by promotion from amongst the substantive members of a State Police Service in accordance with such regulations as the Central Government may after consultation with the State Government and the Union Public Service Commission, from time to time, make. In pursuance of Sub-rule (1) of Rule 9 of the Recruitment Rules, the Central Government made the Indian Police Service (Appointment by Promotion) Regulations, 1955 (hereinafter referred to as "the Regulations"). In Regulation 2(1)(j) "State Police Service" is defined as follows:

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

(j) "State Police Service" means, -

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

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

(b) the Goa Police Service;

(c) the Pondichery 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 may be mentioned that the same definition has been given to "State Police Service" in the Recruitment Rules also.

3. Till 22.1.1965 promotion to the Indian Police Service were being made in the State of Kerala only from the personnel in the Principal Police Service of the State which normally held charge of the Sub Division of a District for purposes of police administration. In other words, promotions to the Indian Police Service were being made in Kerala from among those who occupied the posts of Deputy Superintendent of Police and above. As per G.O. Ms. 93 dated 22.1.1965 issued by the Government of Kerala under Regulation 2(1)(j) of the Regulations, the posts of Assistant Commandants and above in the M.S.P. and the S.A.P. Battalions in the State were declared as equivalent to the Principal Police Service of the State namely Deputy Superintendent of Police for the purpose of Rule 4 of the Regulations. Later, in modification of G.O.Ms. 93 dated 22.1.1965, the Government of Kerala issued G.O. Ms.372 dated 7.4.1965 declaring the Malabar Special Police (M.S.P.) and State Armed Police (S.A.P.) Services as equivalent to

the Principal Police Service of the State. The posts of Assistant Commandants and above in the M.S.P. and S.A.P. were also declared as equivalent to the post of Deputy Superintendent of Police of the Principal Police Service of the State for the purpose of Rule 4 of the Regulation. However, later the Government felt that officers of the Armed Police Battalions on appointment to the Indian Police Service would find it difficult to manage the District Police Administration since they would have no training or experience in the General Executive prior to their appointment to the Indian Police Service. In order to overcome this difficulty, Government decided that officers of the Armed Police Battalion included in the select list for appointment to the Indian Police Service should undergo a course of training to equip them for taking up General Executive assignments in the Police Department. Hence, as per G.O.(P) 390/PD dated 3rd December, 1970, Government of Kerala prescribed a programme of training for such officers covering a period of 18 months. Out of the 18 months, six months were for theoretical training in the Police Training College, six months were for practical training in District and the remaining six months were for independent charge of a Police Sub Division. The details of training under each part also were given in the Annexure to the said Government Order.

4. Subsequently, the Government of Kerala issued G.O.(MS) 278/73 dated 23.10.1973 declaring under Regulation 2(1)(j) of the Regulations that the Armed Reserve will be equivalent to the Principal Police Service of the State. In the same order, the Government declared under Regulation 5 of the Regulations that the posts of Assistant Commandants and above in the Armed Reserves will be equivalent in status and responsibility to that of Deputy Superintendent of Police of the Principal Police Service. Later, Government of Kerala issued G.O.MS.651/79/GAD dated 15.12.1979 declaring under Regulation 2(1) of the Regulations that the service in the Police Telecommunication Unit will be equivalent in status and responsibility to that of Deputy Superintendent of Police of the Principal Police Service.

5. In the year 1990, one K. Ramachandra Panicker, a Senior Grade Deputy Superintendent in the General Executive Branch of the Kerala State Police Service filed O. A. No. 318 of 1990 in the Central Administrative Tribunal, Ernakulam Bench praying among other things for a declaration that the Deputy Superintendent of Police and above in the Telecommunication Wing, Armed Police Battalions and Armed Reserve are not holding equivalent posts and cannot be equated with the Deputy Superintendent of Police of the Principal Police Service. The said O. A. was dismissed by the Tribunal on 31.1.1992 holding that the State Government is competent to decide which cadre in which service in which branch can be equated to the post of Deputy Superintendent of Police in the Principal Police Service of the State. The Tribunal did not find any merit in the contention of the applicant that the equation of the posts in the Telecommunication Wing and the Armed Police Battalions to the post of Deputy Superintendent of Police was arbitrary and irrational.

6. Thereafter one G. Janardhanan Nair, Deputy Superintendent of Police submitted a representation dated 23.2.1995 requesting the Government to review the orders declaring the post of Assistant Commandants in MSP and SAP Battalions as equivalent to the post of Deputy Superintendent of Police in the Principal Police Service. When there was no favourable response he filed O.A. No. 520 of 1995 before the Ernakulam Bench of the Central Administrative Tribunal challenging the orders declaring the post of Assistant Commandant in the MSP and SAP Battalions as equivalent to the post of Deputy Superintendent of Police in the Principal Police Service. When the O.A. came up for hearing before the Tribunal the Government Pleader submitted that the State Government was considering the representation of the applicant and that the matter need not be decided by the Tribunal. The said submission of the Government Pleader was recorded by the Tribunal and the O.A. was disposed of on 20.11.1995 directing the State Government to take a decision in the matter within two months. Thereupon the Government issued G.O.(MS) No. 133/96/GAD dated 24.4.1996 stating that the equation of officers of MSP and SAP Battalions and Armed Reserve with the officers of the General Executive Branch was made many years ago and it had not caused any serious difficulties till then and that the Government proposed to take special steps thereafter to ensure that those officers were not found wanting in any respect in the discharge of their duties when assigned to senior posts in the Indian Police Service. It was further stated that as far as the MSP and SAP Battalions and the Armed Reserve were concerned the declaration of equivalence did not require reconsideration. However, according to the Government the declaration of equivalence in respect of the Telecommunication Unit deserved to be reviewed. Accordingly the orders issued in G.O.(MS)No. 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 Superintendent of Police in the Principal Police Service were cancelled with retrospective effect.

7. Not satisfied with G.O.(MS) No. 133/96/GAD dated 24.4.1996 G. Janardhanan Nair, Deputy Superintendent of Police filed O.A. No. 477 of 1996 in the Central Administrative Tribunal, Ernakulam Bench challenging the promotion of members of the Armed Police units to the Indian Police Service. According to him, the promotion of members of the Armed Police Units to the Indian Police Service had an adverse impact on the morale and efficiency of the police force. It was contended that a Sub Inspector of Police took about 20 years to become a Sub Divisional Officer and another 8 years for consideration for promotion to the Indian Police Service whereas an officer appointed in the Armed Reserve took much less time to reach that position, This created a lot of heart burning in the service. It was further submitted that the experience and expertise required to manage matters relating to investigation, law and order, public relations, intelligence, etc. could be gathered only by practical experience which only the members of Principal Police Service had. According to the applicant, a member of the Armed Reserve was largely concerned with "bandhobust" duties and had no

experience of crime investigation, intelligence work, law and order, conducting prosecutions etc. He also contended that encadring Armed Reserve personnel without the necessary expertise into the Indian Police Service bypassing experienced officers in the Principal Police Service will defeat public interest and affect the efficiency of police administration. He also contended that such a practice was not followed by many of the State Governments. The Tribunal felt that the aspects highlighted by the applicant required serious consideration, more in the interests of public administration than in the interests of the officials. However, the Tribunal was of the view that they were matters of policy and it was not proper for the courts to interfere. Hence, the Tribunal disposed of the O.A. on 31.5.1996 permitting the applicant to make a detailed representation before the Government and expressing the confidence that a matter of such importance would receive the attention of the Council of Ministers who would be in a position to take a well considered decision. Pursuant to the order of the Tribunal in O.A. No. 477 of 1996 Sri. G. Janardhanan Nair, Deputy Superintendent of Police filed a detailed representation dated 31.1.1997 before the Government.

8. The Kerala Police Service Officers Association also submitted to Government a representation dated 5/7.7.1997 requesting for review of the Government orders equating officers of AP Battalions and Armed Reserve with those of General Executive. The officers of the AP Battalions and the Armed Reserve also filed representations dated 2.9.1997 and 3.9.1997 opposing any review of the said Government orders. After considering the above mentioned representations, the Government issued G.O.(Rt)No. 2768/98/Home dated 4.6.1998 constituting a Committee to look into the entire aspects of the case in-depth. The Committee was directed to hold discussion with the representatives of the Service Associations before finalising their proposals. The Committee was also directed to examine the question whether the out of turn promotions given to Sports persons based on their performance need be continued and whether they need be given monetary rewards instead of out of turn promotions. The Committee consisted of (1) the Principal Secretary, Home (Chairman), (2) the Director General of Police, (3) the Secretary (P & ARD), (4) a representative of the Law Department and (5) the Inspector General of Police (Convener). The Committee after detailed examination of the issue and hearing the parties found that the officers of the Armed Police/Armed Reserve got promotion as Assistant Commandants much earlier than the officers of the Executive Wing as Deputy Superintendent of Police and therefore they became entitled for consideration for appointment to Indian Police Service earlier than the officers of the General Executive. The Committee also found that the duties and responsibilities of officers of the Armed Police/Armed Reserve and the General Executive were entirely different and distinct. The officers in General Executive handle works such as law and order, crime investigation, traffic control, VIP security, etc. whereas the officers of the Armed Police/Armed Reserve are attending works of entirely different nature. After detailed study of the issue the Committee recommended that the equation given to the officers of Armed Police/Armed

Reserve with the Principal Police Service officers for promotion to Indian Police Service may be rescinded. The Committee also suggested that the Armed Police/ Armed Reserve officers may be provided expanded avenues for promotion within their own service. The Government examined the report of the Committee and accepted the findings of the Committee and issued G.O.(MS) No. 534/2000/GAD dated 25.9.2000 ordering that the equation of the Armed Police and Armed Reserve with the Principal Police Service of the State and also the Assistant Commandants with Deputy Superintendents of Police for purposes of promotion to the Indian Police Service be dispensed with. In the said Government order dated 25.9.2000 the Government has categorically held that the duties and responsibilities of the officers in the Armed Police and Armed Reserve are entirely different from those in the General Executive. The Government has also held that the Armed Police Officers are not put in charge of sub divisions for police administration.

9. Challenging G.O.(MS) No.534/2000/GAD dated 25.9.2000 the officers of the Armed Police/Armed Reserve filed O.A. Nos. 1107 of 2000, 67 of 2001 and 491 of 2001 before the Ernakulam Bench of the Central Administrative Tribunal. Even though the Union of India, the State of Kerala, the Director General of Police, Kerala State, and the Union Public Service Commission were impleaded as respondents in the said Original Applications, none of the officers of the Principal Police Service of the State was impleaded as respondent. All the three O.As. were considered together by the Tribunal. The Union of India filed statements in the O.As. indicating that as the equivalence is to be declared by the State Government the contention of the State Government may be considered by the Tribunal. The State Government filed a reply statement in O.A. No. 1107 of 2000 justifying and supporting the impugned Government order. It was contended by the State Government that the impugned order was issued after considering the recommendations of the Committee headed by the Principal Secretary (Home) and including the Director General of Police, the Secretary to Government (P & ARD), a representative of the Law Department and Inspector General of Police (Headquarters). Though the State Government did not file any reply in O.A. Nos. 67 and 491 of 2001 the Government Pleader adopted the contentions in the reply filed in O.A. No. 1107 of 2000 for the purpose of the said O.As. also. The above mentioned three O.As. were disposed of by the Tribunal through a common order dated 14.8.2001 which is challenged in the present Original Petitions.

10. The Tribunal set aside G.O.(MS). No. 534/2000/GAD dated 25.9.2000 dispensing with the equation of 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 Indian Police Service. The Tribunal directed the respondents to consider the applicants in the three O.As. for appointment to Indian Police Service under I.P.S. (Appointment by Promotion) Regulations, 1955 in their turn. The Tribunal held that there was no valid reason for the State Government to issue the impugned order and that the impugned order was made arbitrarily for extraneous considerations and hence

liable to be set aside.

11. As per the I.P.S. Recruitment Rules, 1954 and the I.P.S. (Appointment by Promotion) Regulations, 1955 "State Police Service" means the Principal Police Service of the 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 the State which is declared by the State Government to be equivalent thereto. The Armed Police Battalions and the Armed Reserve are not part of the Principal Police Service of the State of Kerala. But they are duly constituted police services functioning in the State. Hence they can be treated as State Police Service only if they are declared by the State Government to be equivalent to the Principal Police Force of the State. Prior to 22.1.1965 the Armed Police and Armed Reserve were not treated as State Police Service for the purpose of appointment to the Indian Police Service by promotion. On the basis of G.O.(MS) No.93/PD dated 22.1.1965 and subsequent orders issued by the Government of Kerala under Regulation 2(1)(j) of the Regulations declaring the Armed Police and the Armed Reserve to be equivalent to the Principal Police Service of the State, the officers of the Armed Police/ Armed Reserve were being considered for promotion to the Indian Police Service. If the Government of Kerala has power to declare the Armed Police and the Armed Reserve to be equivalent to the Principal Police Service of the State, it has also power to cancel or revoke such declaration for valid and sufficient reasons. Hence it cannot be said that Government of Kerala had no power or competence to issue G.O.(MS)No.534/2000/GAD dated 25.9.2000.

12. The next question is whether the order dated 25.9.2000 was issued by the Government for valid and sufficient reasons. As already stated, in the order passed in O.A. No. 477 of 1996 filed by Sri. G. Janardhanan Nair, the Central Administrative Tribunal itself had observed that the points raised by the applicant in support of the revocation of the declaration were important and required serious consideration by the Council of Ministers in the interest of public administration. The Kerala Police Service Officers Association had submitted a representation dated 5/7.7.1997 requesting the Government to review the orders equating the Armed Police Battalions and the Armed Reserve with the General Executive. The officers of the Armed Police Battalions and the Armed Reserve also had filed representations dated 2.9.1997 and 3.9.1997 opposing any review of the said Government orders. After considering the said representations the Government found it necessary and expedient to constitute an Expert Committee to look into the entire aspects of the case in-depth. The Committee consisted of the Principal Secretary (Home), Government of Kerala, the Director General of Police, Kerala State, the Secretary P & ARD, the Additional Secretary, Law Department, Government of Kerala and the Inspector General of Police. The Expert Committee held discussions with the representatives of the Service Associations and officers belonging to the different groups. The Government file leading to G.O.(MS) No. 534/2000/GAD dated 25.9.2000 has been made available to the court by the learned Additional

Advocate General who appeared for the Government of Kerala. The file shows that the Expert Committee found that the officers of Armed Police Battalion and Armed Reserve who have lesser service compared to the service of the General Executive get promotion to the cadre of Assistant Commandants and become eligible for consideration for appointment to the Indian Police Service in preference to the officers of the General Executive. In future also the persons who were given out of turn promotion for their achievement in sports and who were recruited under Special Recruitment Scheme in Armed Police Battalion may come up in the field of choice for consideration to Indian Police Service in preference to the officers of the General Executive who have longer service. If the existing set up were to continue promotional avenues of officers of the General Executive to Indian Police Service will suffer since junior officers of Armed Police Battalion and Armed Reserve will get faster promotion and occupy senior posts in the Indian Police Service. The Committee also found that officers of the General Executive who are appointed by promotion to Indian Police Service need not undergo the basic training course at Police Training College as they have successfully completed the same training at the threshold of their career. At the same time the officers of Armed Reserve and Armed Police Battalion who are appointed by promotions to Indian Police Service have to undergo practical training in the field as they do not have the basic qualification envisaged for appointment to Indian Police Service. The Committee also found that by training and experience a civil police officer is groomed to deal with the entire range of police duties and functions, whereas the training of other cadres like Armed Police Battalions, Armed Reserves, etc. is necessarily limited to the basic scope of their particular functions and duties. For example, the training of civil police officers lays special emphasis on the prevention, investigation, and detection of crimes, regulation of traffic, dealing with law and order issues, maintenance of public peace, tranquillity and communal harmony, VIP security duties, collection of intelligence, police-public contacts and, in general, the entire gamut of the functions and duties of a local police officer who deals with the public and society at the cutting-edge level. By way of experience also, right from the beginning, a civil police officer steadily gains experience in all the above functions and duties and is ultimately fit to discharge such duties and responsibilities as an Indian Police Service Officer is expected to do. However, in the case of Armed Police and Armed Reserve Officers, the emphasis of training is on the functions and duties of the Armed Police, including guards, escorts of prisoners and treasure, providing a striking force to supplement the local police and dealing with combat situations. The gamut of their functions and experience is mostly within the Armed Police Camps and Armed Reserve Camps and their public dealings are extremely limited in scope. According to the Committee, if an Armed Reserve or Armed Police Officer is to be inducted into the Indian Police Service, he would have to be trained in myriad relatively different functions and duties and even if he does absorb such training effectively, he will not have the benefit of the experience gained by the civil police officer over a very long period of time. According to the Committee the emphasis of the training given to the

Armed Police and Armed Reserve Officers is significantly different from the emphasis bestowed on the training given to civil police officers. Hence after careful consideration of all the aspects of the matter including the prevailing practice in neighbouring States and after hearing both parties, the Committee unanimously recommended that the Government orders declaring the post of Assistant Commandant in Armed Reserve and Armed Police Battalions as equivalent to the post of Deputy Superintendent of Police in the Principal Police Service of the State for the purpose of regulation 4 of the I.P.S. (Appointment by Promotion) Regulations should be rescinded. After carefully examining the report of the Expert Committee the Government accepted the findings and the recommendation of the Committee and ordered that the equation of the Armed Police and the Armed Reserve with the Principal Police Service of the State and also the Assistant Commandant with the Deputy Superintendent of Police for the purpose of promotion to the Indian Police Service be dispensed with. In our view, the above mentioned reasons stated by the Expert Committee and accepted by the Government for reviewing and rescinding the earlier orders and for dispensing with the equation of the Armed Police and Armed Reserve with the Principal Police Service of the State and the Assistant Commandants with the Deputy Superintendent of Police for promotion to the Indian Police Service, are relevant, valid and sufficient reasons. Hence we are of the view that G.O.(MS) No.534/2000/GAD dated 25.9.2000 was issued by the Government for valid and sufficient reasons.

13. The Tribunal has rightly observed that the Government order dated 25.9.2000 is an administrative order issued by the State Government and that it can be interfered with only if it is shown to be vitiated by mala fides or gross arbitrariness or is made on irrelevant considerations. But there is no factual or legal basis for the finding of the Tribunal that the impugned order dated 25.9.2000 was passed arbitrarily on extraneous and irrelevant considerations. It is significant that even the Tribunal has not held that the order is vitiated by mala fides.

14. The following principles should be followed in the matter of judicial review of administrative decisions and orders:

(i) Any action or decision of the State or a public authority is judicially reviewable, irrespective of the sphere in which the discretion was exercised by the State or the said authority. The scope of judicial review may vary with reference to the type of matter involved. But there is no such thing as unreviewable administrative discretion.

(ii) Any act of the repository of power, whether legislative or administrative or quasi-judicial, is open to challenge if it is in conflict with the Constitution of India or the governing Act or the general principles of the law of the land or it is so arbitrary or unreasonable that no fair minded authority could ever have made it.

(iii) Whenever a decision making function is entrusted to the subjective

satisfaction of a statutory functionary, there is an implicit obligation to apply his mind to pertinent and proximate matters only, eschewing the irrelevant and the remote.

(iv) If the action or decision is perverse or is such that no reasonable body of persons, properly informed, could come to or has been arrived at by the authority misdirecting itself by adopting a wrong approach or has been influenced by irrelevant or extraneous matters, the Court would be justified in interfering with the same.

(v) The repository of power should act within the bounds of the power delegated and should not abuse his power. He must act reasonably and in good faith.

(vi) A repository of power acts ultra vires either when he acts in excess of his powers in the narrow sense or when he abuses his power by acting in bad faith or for an inadmissible purpose or on irrelevant grounds or without regard to relevant considerations or with gross unreasonableness.

(vii) Where there is arbitrariness in State action, Article 14 of the Constitution springs in and judicial review strikes such an action down. Every action of the executive authority must be subject to rule of law and must be informed by reason. Rule of law contemplates governance by laws and not by humour, whims and caprices of the men to whom the governance is entrusted for the time being. An act uninformed by reason is arbitrary.

(viii) Arbitrariness is anathema to State action in every sphere and wherever the vice percolates, the Court would not be impeded by technicalities to trace it and would strike it down.

(ix) Judicial review as the words imply is not an appeal from a decision but a review of the manner in which the decision was made. The Court is concerned not with the decision but with the decision making process. But it does not mean that the court cannot consider the established grounds of review which extend to the substance as well as the manner of the making of administrative decisions and acts.

(x) Every State action has to be for a public purpose and must promote public benefit.

(xi) The discretionary power conferred upon an authority for the public good is coupled with a duty to perform it under relevant circumstances. The fact that exercise of the power is left to the discretion of the authority does not exonerate him from discharging his duty.

(xii) If the authority fails to discharge his duty by refusing to exercise his discretion when facts calling for its exercise exist, the court will compel him to do so.

(xiii) If the discretionary power is exercised arbitrarily, capriciously or unreasonably or by taking into consideration extraneous and irrelevant

considerations, in the eye of law, the authority concerned must be deemed not to have exercised the discretion at all, that is, he has not discharged his duty. In such a situation also the Court will compel the authority to discharge the duty of exercising the discretion honestly and in the spirit of the statute.

(xiv) If the authority exercises his discretion honestly and in the spirit of the statute no mandamus will be issued directing him to exercise his discretion in a particular way.

(xv) A decision resulting from the exercise of power or discretion on the dictation of some one else is ultra vires and void. There is a difference between seeking advice and then genuinely exercising one's own discretion, on the one hand, and, on the other hand, acting obediently or automatically under someone else's advice or directions. In the latter case, there is no proper exercise of discretion and the Court will be justified in intervening to compel proper exercise of discretion by the authority concerned.

(xvi) The jurisdiction of the High Court under Article 226 of the Constitution of India is wider than the jurisdiction of the English Courts in relation to prerogative writs. Article 226 is designedly couched in a wide language in order not to confine the power conferred by it only to the power to issue prerogative writs as understood in England. Such wide language is used to enable the High Courts to reach injustice where ever it is found and to mould the reliefs to meet the peculiar and complicated requirements of this country.

(xvii) Though the High Court acting under Article 226 of the Constitution is not bound by the technical rules applying to the issuance of prerogative writs like certiorari, prohibition and mandamus in the United Kingdom, yet the basic principles and norms applying to the said writs must be kept in view.

(xviii) While exercising its jurisdiction under Article 226, the High Court cannot sit as an appellate authority over administrative authorities. The court cannot substitute its judgment for that of the administrative authorities. Only when the action of the administrative authority is so unfair or unreasonable that no reasonable person would have taken that action, can the court interfere.

(xix) In order that mandamus may issue to compel the authorities to do something, it must be shown that the statute imposes a legal duty and the aggrieved party has a right under the statute to enforce its performance.

(xx) In exercise of its power under Article 226, the High Court is competent to pass orders and give necessary directions where the Government or a public authority has failed to exercise or has wrongly exercised the discretion conferred on it by a statute or a rule or a policy decision of the Government or has exercised such discretion mala fide or on irrelevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred. In all such cases, the High Court can compel the Government or the public authority

concerned to exercise the discretion in a proper and lawful manner.

(xxi) In a proper case, in order to prevent injustice, the Court may itself pass an order or give directions which the Government or the public authority should have passed or given had it properly and lawfully exercised its discretion.

15. In the light of the above principles we do not find any justification for setting aside the Government Order dated 25.9.2000 by the Central Administrative Tribunal. The said Government order is not in conflict with the Constitution of India or any provisions in the Recruitment Rules and the Regulations. It cannot be said that the order is so arbitrary or unreasonable that no fair minded authority could ever have made it. While issuing the order the Government has applied its mind only to pertinent matters and relevant aspects. The Government was not influenced by any irrelevant or extraneous considerations. The Government has acted only within the bounds of the power conferred on it and there was no abuse of its power. The act of the Government was informed by reason. It was based on the findings and recommendations of an Expert Committee which made an in-depth study of the issue and considered the views of the representatives of police officers belonging to the Principal Police Service and the Armed Police/Armed Reserve. However the Central Administrative Tribunal quashed the Government order as if the Tribunal was considering an appeal from the decision of the Government. The Tribunal acted like an appellate authority and substituted its judgment for that of the Government. The Tribunal was not right or justified in doing so.

16. When the grievance of a section of officers was brought to the notice of the State Government through a representation, the State Government constituted an expert committee to look into the matter and make an in-depth study after hearing all the interested parties. As can be seen from G.O. (Rt) No. 2768/98/ Home dated 4.6.1998 constituting the expert committee, not only the representation dated 5.7.1997 from the Kerala Police Service Officers Association but also representations dated 2.9.1997 and 3.9.1997 from the officers of the Armed Police Battalion and Armed Reserve were referred to the expert committee. It is also seen that the expert committee had issued notice to all those who submitted representations and to the representatives of the officers and had heard them before formulating its recommendations to the Government. The Committee consisted of persons who have expertise and experience in the field and direct knowledge of the working of the police force. The findings and recommendations of the committee were unanimous. The State Government carefully examined the report of the expert committee and decided to accept the findings and recommendations of the expert committee and issued the impugned order dated 25.9.2000. The findings and recommendations of the expert committee cannot be said to be arbitrary or unreasonable. The reasons stated by the committee in support of its findings and referred to in paragraph (12) above, cannot be said to be incorrect or irrelevant. Even otherwise, neither the Tribunal nor this Court is competent to sit in appeal over the correctness or

reasonableness of the findings of the expert committee. The expert committee is in a much better position to assess the factual situation and to understand the nature of the duties and functions of the different officers in the police force and the qualifications and training required for discharging the respective duties and functions of the officers belonging to different wings of the police force. The findings arrived at and the recommendations made by the expert committee after considering all relevant aspects and hearing the interested parties and found acceptable by the State Government cannot be rejected by the Tribunal or the Court unless they are so arbitrary or irrational. In our view, the findings and recommendations of the expert committee are not at all arbitrary or irrational.

17. One of the reasons stated by the Tribunal for holding that the impugned Government order dated 25.9.2000 was passed arbitrarily on irrelevant and extraneous considerations is that when the same issue was considered by the Government on earlier occasions, the Government had not found anything wrong with the declaration that Armed Police Battalions and Armed Reserve are equivalent to the Principal Police Service of the State. But in our view, while taking an administrative decision, the Government cannot be bound by any view taken earlier in the matter. It is open to the Government to reconsider any decision taken in the past and to review and reverse the earlier decision for valid and sufficient reasons. The decision of the State Government contained in the impugned order dated 25.9.2000 is based on valid and sufficient reasons and on relevant considerations.

18. Another reason stated by the Tribunal is that when Original Applications were filed before the Central Administrative Tribunal challenging the earlier orders declaring the Armed Police Battalions and Armed Reserve to be equivalent to the Principal Police Service, the State Government had justified and supported those orders and the Tribunal had rejected the challenge against those orders. It is only normal for any Government to take a stand justifying and supporting its orders when challenged before the Tribunal or the court of law. It does not mean that the Government cannot change its view or decision or modify or revoke its earlier orders if it is found just and necessary to do so. The stand taken by the Government in a case before the Tribunal or a court of law cannot prevent the Government from modifying or reversing its stand later, if found necessary for valid reasons. In other words, if the Government is satisfied that in taking a decision or passing an order the Government committed a mistake, nothing prevents the Government from correcting the said mistake and taking a fresh decision and issuing fresh orders.

19. A contention taken by the applicants in the Original Applications and found acceptable by the Tribunal is that since the Tribunal had accepted the contentions of the State Government and had upheld the validity of the earlier Government Orders declaring the Armed Police Battalions and Armed Reserve to be equivalent to the Principal Police Service of the State, the Government could not have reversed the position by reviewing those orders. But, we do not find any merit in

the above contention. If that contention is accepted, the Government will not be in a position to review and revise an administrative decision taken in the past just because when such decision was challenged before the Tribunal or a Court, the decision was upheld by the Tribunal or the Court.

20. According to the Tribunal, the fact that the Armed Police Officers are not put in charge of Sub Divisions for police administration, cannot 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, because, while providing for declaration of any other duly constituted police service functioning in the State as equivalent to the Principal Police Service, the Central Government 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. But we do not agree with the view of the Tribunal. It is true that the Regulations enable the State Government to declare a duly constituted police service to be equivalent to the Principal Police Service, even if the former's members do not normally hold charge of a Sub Division of a District. But the existence of such an enabling provision does not imply that the State Government cannot take a stand that it will not declare a Police Service to be equivalent to the Principal Police Service since the former's members normally do not hold charge of a Sub Division of a District for the purpose of police administration. Under the Regulations, it is for the State Government to decide the criteria for such declaration. The Central Government has not curtailed the discretion of the State Government in the matter.

21. We also do not agree with the view of the Tribunal that the difference in the duties of the officers of the Armed Police is not a proper reason for cancelling the equation. As mentioned earlier, it is for the State Government to decide the criteria for equation. If the State Government thinks that the difference in the nature of the duties and functions of the officers is a relevant consideration or proper reason, the Tribunal or the Court cannot hold otherwise unless the view of the State Government is perverse. In our view, the view of the State Government is not at all perverse.

22. The Tribunal has held that the disparity in the promotional chances of the officers is not a relevant consideration in declaring equivalence. Even assuming that it is not a relevant consideration, we find that the decision of the Government is not based on that consideration alone. Even if that consideration is ignored, the Expert Committee had given other valid and sufficient reasons for dispensing with the equation and the State Government accepted them. In other words, the decision of the State Government was based on and supported by other relevant and valid considerations. Hence the Government order was not liable to be quashed by the Tribunal.

23. Having considered all the facts and circumstances of this case, we are of the view that the impugned Government Order dated 25.9.2000 is not vitiated by

any mala fides. Nothing was pleaded and established in the Original Applications to prove any mala fides.

24. It is also relevant that based on the representations submitted by the officers, the Government in G.O.(Ms)No.133/96/GAP dated 24.4.1996 had cancelled with retrospective effect 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 the Deputy Superintendent of Police in the Principal Police Service. In the same Government Order dated 24.4.1996, Government did not cancel the equation of officers of M.S.P. and A.P. Battalion and Armed Reserve with the officers of the General Executive Branch only because the equation was made many years ago and it had not caused any serious difficulties till then. At the same time, the Government also proposed to take special steps to ensure that the officers were not found wanting in any respect in the discharge of their duties when assigned to senior positions in the I.P.S. Indirectly, the Government admitted that those officers were found wanting in the discharge of their duties when assigned to senior positions in the I.P.S. Now the Expert Committee has found that even the equation of Armed Police Battalions and Armed Reserve with the Principal Police Service should be dispensed with and the Government has accepted the recommendation of the Expert Committee.

25. In the above circumstances, the Original Petitions are allowed and the impugned order of the Tribunal is set aside. Consequently, the O.As. filed before the Tribunal will stand dismissed. No costs.