

P. Hari Kumar and anr. Vs. Union of India (Uoi) and ors.

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Court : Central Administrative Tribunal CAT Hyderabad

Decided On : Feb-21-2003

Reported in : (2003)(3)SLJ1CAT

Judge : K P Vice, N a M.V.

Appellant : P. Hari Kumar and anr.

Respondent : Union of India (Uoi) and ors.

Judgement :

1. The applicants in both these cases have challenged their non-selection for appointment by promotion to the Indian Police Service for the year 2002 for the A.P. State and sought for a declaration that the said action of the respondents is arbitrary, unjust and in violation of Articles 14 and 16 of the Constitution of India and for a direction; to the respondents to reconsider their claims properly and order for inclusion of their names in the select list prepared by the Select Committee for appointment by promotion as officers as Indian Police Service for the year 2002 and on that basis to direct the first respondent to declare the applicants to have been appointed by promotion to the I.P.S. with effect from 2.8.2002 with all consequential benefits, such as, year of allotment, pay fixation etc.

2. The applicants in both these cases belong to 1987 batch and directly recruited Deputy Superintendents of Police. The applicant in O.A. No.1004/2002 is a Post Graduate in Zoology from Andhra University. He has obtained LL.B. Degree from

the Osmania University between the years 1980-83. He came to be selected as Dy. Superintendent of Police, Category-II and was appointed against Roster point No. 33 and came to be considered against the OC vacancy pursuant to the orders issued by the State Government in their GOMs. No. 363 Home (Police. E) Department dated 20th August, 1987.

3. The applicant in O.A. No. 1297/2002 is also a Post Graduate from S.V. University, Tirupati, a Law degree from Andhra University and also holds the Bachelors Degree in Veterianary Sciences from Andhra Pradesh Agricultural University. He was selected as Deputy Superintendent of Police in the year 1987.

4. The applicant in O.A. No. 1004/2002 alleged that he worked at sensitive places like Yellanadu in Khammam District, in the Grayhounds, S.D.P.O., Narsaraopet in Guntur District and Narsampet in Warangal District. In fact, when 5 officers including an IPS Officer showed disinclination to report to duty at Narsampet due to the extremist menace, the applicant was posted to handle this sensitive assignment and he continued to function there for 3 years between 1992-95. He was then transferred and posted to Dharmavaram Subdivision in Anantapur District. While serving there, he came to be promoted as Additional Superintendent of Police (Non-cadre) in the pay scale of Rs. 5050-8700/- based upon the approval accorded to the panel prepared by the Departmental Promotion Committee which met on 12.7.1995. Out of 27 officers so found fit for promotion, the applicant was one such included at Sl. No. 25 and accordingly he was promoted as Additional Superintendent of Police (Non-cadre) through G.O. Rt. No. 3620 GAD (SC.C) Department dated 24.7.1995. The applicant was posted as Additional Superintendent of Police of Anantapur District to begin with and subsequently he was transferred to handle the sensitive duties of Additional S.P. Warangal District where he worked for 2 and half years upto November, 2000. Later basing on his outstanding record, the applicant was chosen and posted as Vigilance Officer in A.P. Transco, Tirupathi to control the Pilferage of Energy and to strengthen the Vigilance network when power reforms were introduced in the State. It is further alleged that the applicant came to be selected for the U.N.Interim Administration Mission in Kosovo during the period 2001-2002.

He served the U.N. Mission upto May, 2002 and upon repatriation, he is currently posted as Chief of Vigilance of the A.P. Central Power Distribution Company Ltd. Hyderabad. The services rendered by the applicant have been appreciated and commended on several occasions. He came to be regarded as one of the outstanding Police Officers of the State Police Service. By virtue of his sustained and meritorious record of service, he has been selected for the A.P. Police Uttam Seva Padakam award on the eve of Ugadi--Telugu New Year's Day. The State Government has passed orders conferring the Uttam Seva Padakam on the applicant through their G.O. Ms. No. 291 Home (SC. E) Department dated 9th April, 1994. Through out his service, the applicant came to be recognised as a meritorious Police Officer.

5. It is the further case of the applicant that the respondent No. 6 Sri K. Venugopal Rao, who is selected along with the applicant herein for direct recruitment as a Deputy Superintendent of Police, Category II of 1987 Batch, and is senior to the applicant, was not even fit for promotion as Additional Superintendent of Police (Non-cadre) by the DPC when it took the cases of the officers on 12.7.1995. Though the respondent No. 6 has been bypassed and several of his juniors have been superseded him in getting promotion as Additional Superintendent of Police, later he came to be promoted and appointed only when the next DPC meeting held on 26.12.1998 after considering his case for such promotion. Thus till 5.1.1995 the respondent No. 6 continued to function in lower positions while the applicant and several juniors of respondent No. 3 were shouldering higher responsibilities right from 25.7.1995. The Selection Committee which met on 10.7.2002 to consider the eligible State Police Officers for promotion to IPS found Respondent No. 6 fit for promotion to the IPS while the applicant was not included in the list of officers who were suitable for promotion to the IPS cadre of Andhra Pradesh.

6. The applicant in O.A. No. 1297 of 2002 also made the same grievances in his application stating that he was also promoted to the post of Additional Superintendent of Police (Non-cadre) through G.O. Rt. No.3620 (SC. C) Department dated 24.7.1995 and he was not included in the select list for promotion and appointment to IPS prepared by the Select Committee which met

on 10th July, 2002. It is also the case, of this applicant that he has worked as Additional Superintendent of Police, Warangal District and he participated in four exchanges of fire with extremists and he escaped two attempts on his life. The D.G. and I.G. of Police has also given commendation certificates to this effect. He was given advance increment by the Government of Andhra Pradesh for his efforts in preventing and detecting serial killings in Chittoor District which claimed more than 20 lives. He got several commendation letters for apprehension of several notorious dacoit gangs and for investigation of sensational murder cases. Later, basing on his outstanding record, he was chosen and posted in the Vigilance and Enforcement Department as Regional Vigilance and Enforcement Officer, Hyderabad City. He was given an advance increment when he identified sensational tax evasion cases of worth more than Rs. 20 crores and brought several scams out while working in the Vigilance and Enforcement Department. He has been awarded the Seva Pathakam on the eve of Telugu New Year's Day Ugadi in the year 1995. He has been awarded the Telugu Uttama Seva Patram on the occasion of A.P. Formation Day in the year 2001 in recognition of his meritorious service. He has come to be recognised as a meritorious Police Officer and consequently chosen for very sensitive and crucial assignments where he has come out in flying colours.

7. Both the applicants contended that the Select Committee has been confining its scrutiny to the preceding 5 years service record only whereas the Committee is required to consider the entire service record of the officer for an overall assessment. They further contended that the applicant in O.A. 1297/2002 and Sri P. Umapathi have been graded in their service records consistently for all the five years as "Outstanding." However, the Selection Committee did not grade the applicants as "Outstanding" and downgraded them as "Very good" while Sri P. Umapathi was given the grading as "Outstanding". The Selection Committee, which is a high profile Committee, has not been vested with the powers to downgrade the assessment of any police officer in the name of deep examination of the service record and deliberation. The Selection Committee has mechanically selected the State Police Service Officers according to their seniority in the State Service whereas the selections ought to have been made only on merit and not according to the seniority. The Selection Committee graded Sri B. Srinivasulu,

respondent No. 7 as "Outstanding," whereas the previous Selection Committee for the year 1999 has graded him only as "Very good." They also contended that it has been a decided principal of law that the persons discharging their duties in one grade above the basis eligibility are liable to be given weightage in the form of grading one step above the gradation obtained. The applicants who were officiating in higher posts from 1995 onwards ought to have been graded one step higher by the Selection Committee also.

8. In addition to the above grounds, the applicant in O.A. No.1297/2002 has taken an additional ground that the seniority list which was the basis for selection is defective as admitted by the State Government before the Hon'ble Supreme Court in a affidavit filed in SLP No. 7615/2001 and therefore, ought not to have been relied upon and on this ground alone the whole selection process deserves to be set aside.

Both the applicants, therefore, approached this Tribunal seeking for the above said reliefs.

9. Respondents 1, 2, 3, 4 and private respondents 6 and 7 have filed their respective reply statements. Respondent No. 5 has not filed his reply statement. All of them have taken the common contentions. The appointment from the State Police Service to Indian Police Service is governed by the Indian Police Service (Appointment by Promotion) Regulations, 1955 (Promotion Regulations, in short) as amended from time to time. The Promotion Regulations envisage distinct roles to play in respect of the State Government, the Union Public Service Commission and the Central Government, with specific mandates in the process of preparation of Select List of State Police Service Officers for promotion to the Indian Police Service, right from the stage of drawing the list of eligible officers by the State Government to finally making appointments to the service from the select list by the Central Government. Whereas the State Government has the exclusive role in regard to drawing of the consideration zone of the eligible State Police Service Officers to be placed before the Selection Committee in terms of seniority of these officers in the State Police Service, the UPSC is wholly concerned with reference to the select list prepared and approved under Regulation 7(3) on the basis of the

grading made by the Selection Committee and with the aid of observations of the State and the Central Government and the Central Government is entirely concerned as the authority concerned in making appointments from the select list in the order in which the names of the members of the State Police Service appear in the select list for the time being in force during the period when the select list remains in force. The State Government being the sole custodian of service records of State Police Officers is required to furnish a proposal for convening the meeting of the Selection Committee, along with a list of eligible State Police Service Officers and their service records, integrity certificates etc., direct to the Union Public Service Commission for consideration of eligible State Police Service Officers for their inclusion in the select list for their subsequent appointment by promotion to the Indian Police Service. The Commission scrutinises the said proposal/records and fixes the meeting of the Selection Committee. The Central Government nominates its nominee on the Selection Committee and as, and when the Commission fixes the meeting. The list prepared by the Selection Committee is finally approved by the Union Public Service Commission and forms the Select list. Finally and specifically in terms of the Regulation 9(1) of the Promotion Regulations, appointment to the IPS of such members of the State Police Service who are included unconditionally in the Select list approved the UPSC is made by the Central Government in the order in which their names appear in the Select list for the time being in force during the period when the Select List remains in force. It may thus be observed that the part played by the Union of India in the process of convening of meeting of the Selection Committee and preparation and finalisation of the Select List is very minimal.

10. As per Regulation 5(4) of the Promotion Regulations, the Selection Committee shall classify the eligible officers as "Outstanding," "Very good," "Good" or "Unfit," as the case may be, on an overall relative assessment of their service records. According to Rule 5(5) of the Promotion Regulations the list shall be prepared by including the required number of names, first from amongst the officers finally classified as "Outstanding" then from amongst those similarly classified as "Very Good" and thereafter from amongst those similarly classified as "Good" and the order of names inter se within each category shall be in the order of their seniority in the State Police Service. The Select List of 2002 for appointment by promotion

of eligible State Police Service Officers of Andhra Pradesh to the Indian Police Service, Andhra Pradesh Cadre was prepared against 10 substantive vacancies available in the State IPS Promotion Quota as on 1.1.2002. The name of the applicant was duly considered by the Selection Committee and was included at Sl. No. 28 in the zone of consideration. On an overall relative assessment of his service records, the applicant was assessed as "Very good" by the Selection Committee. However, two officers namely, respondent No. 7 Sri. B.Srinivasulu and Sri P. Umapathi (included at Sl. No. 8 and 24 in the zone of consideration) were assessed as "Outstanding" and apart from officers included at Sl. Nos. 7, 11, 16 and 30 who were assessed as "Good" and all others (including the applicant herein) were assessed as "Very Good" by the Selection Committee. As such the name of the applicant could not be included in the Select List by the Selection Committee due to statutory limit on the size of the Select List. It is further contended by the respondent No. 1 that the recommendations of the Selection Committee were approved by the Union Public Service Commission on 30.7.2002 and subsequently appointments of all the officers included in the Select List of 2002, duly approved by the UPSC, were made by this respondent on 2.8.2002 strictly in accordance with Regulation 9(1) of the Promotion Regulations.

11. The second Respondent filed its reply statement in both the cases with the following contentions: The Selection Committee has been constituted for selecting the State Police Service Officers to the Indian Police Service in respect of State of Andhra Pradesh consisting of (i) Chief Secretary to Government of A.P. (ii) Secretary in charge of Home Department, Government of Andhra Pradesh, (iii) D.G. and I.G. of Police, Government of Andhra Pradesh, (iv) a member of the service not below the rank of D.I.G. of Police and (v) a nominee of Central Government not below the rank of Joint Secretary to Govt. of India. The meeting of the Selection Committee was held on 10.7.2002 to prepare the yearwise Select Lists for the years 2000, 2001 and 2002 for promotion to the IPS cadre of Andhra Pradesh in accordance with the provisions of the Promotion Regulations as mandated on 25.7.2002. The size of the Select Lists for the years 2000, 2001 and 2002 was based on 3, 4 and 10 vacancies respectively as determined by the Central Government, Ministry Of Home Affairs. The zone of eligible officers for each of these years was 3 (three) times the number of vacancies and the zone for

3, 4 and 10 vacancies was 9, 12 and 30 respectively for the years 2000, 2001 and 2002. The name of the applicant was considered at Sl. No. 28 in the eligibility list for the year 2002 only. The name of the applicant in O.A. No. 1297/2002 was considered for the year 2002 at Sl. No. 21 on the basis of an overall assessment of the service records of both the applicants. The Committee has assessed them as "Very good." However, on the basis of this assessment, their names could not be included in the Select List of 2002 due to the statutory limit on the size of the Select List since the name of the applicants were very low in the list of eligible officers for 2002. Promotion within the State Police Service cannot be equated with or considered at par with the promotion or induction to the IPS, which is an All India Service.

Further the Selection Committee for promotion to the All India Services is a statutorily constituted High Power Committee and the same cannot be equated with the DPCs constituted by the State Governments that is responsible for promotion of officers within their own State Cadre. Promotion to the IPS, on the other hand, is an induction to the All India Services which is distinct from promotion within the State Cadres. As per the uniform and consistent practice followed in UPSC in all States/ Cadres, the Selection Committee examines the service records of each of the eligible officers, with special reference to the performance of officers during the last 5 years (Preceding the year in which the Selection Committee meets). It is solely the domain of the Selection Committee manned and presided over by competent and able Members to devise norms and yardsticks for evaluation of ACRS of officers in the zone of consideration. The procedure adopted is uniformly and consistently applied to all States/Cadres for induction into the All India Services. The Selection Committee takes into consideration the service records (as provided by State Government) of the officers included in the eligibility list and on an overall relative assessment of the records makes its assessment on the relative merits of each candidate. The ACRs of eligible officers are the basic inputs on the basis of which eligible officers are categorised as "Outstanding," "Very good," "Good" and "Unfit" in accordance with the provisions of Regulation 5(4) of the Promotion Regulations. The Selection Committee is not guided merely by the overall grading that may be recorded in the ACRs by the Reporting/Reviewing officer and Accepting Authority but in order to

ensure justice, equity and fair play makes its own assessment of officers on the basis of an indepth examination of their service records and their performance as reflected under various columns recorded in their ACRs by the Report/Reviewing officer/Accepting Authority in the ACRs for different years and then only, it finally arrives at the classification/grading to be assigned to each eligible officer in accordance with provisions of the Promotion Regulations. While making an overall assessment, the Selection Committee takes into account orders regarding appreciation for meritorious work done by the officers under consideration. The Selection Committee also keeps in view orders awarding penalties or any adverse remarks communicated to the officer, which even after due consideration of his representation have not been completely expunged by the State Government. The Selection Committee goes through the service records of each of the eligible officers with special reference to the performance of the officer during the years preceding the year for which the select list is being prepared and makes an overall relative assessment of the officers in the zone of consideration in terms of Regulation 5(4) of the Promotion Regulations. The Committee undertakes the detailed exercise enumerated above solely with a view to ensure objectivity, equity and fair play in the selections. The Regulations prescribe that the Selection Committee is required to classify the officers into four different categories i.e.

"Outstanding," "Very good", "Good," and "Unfit", as the case may be, on an overall relative assessment of his service records. This Tribunal cannot sit over the assessment made by the Selection Committee. The Tribunal also cannot sit in judgment over the selection made by the DPC unless the selection is assailed as being vitiated by mala fides or on the ground of arbitrary as held by the Supreme Court. The selections are made in the instant case in a just and equitable manner on the basis of relevant records and following the relative rules and regulations. Therefore, the said selections are not open for interference by this Tribunal. This Tribunal quashed the select list of 1999 prepared on 22.12.1999 by the Selection Committee by clubbing the vacancies of 1996-97, 1998 and 1999 vide their orders dated 8.2.2001. The said order has been confirmed by the Hon'ble High Court in a writ petition filed by the UPSC by its order dated 5.10.2001. In compliance of the interim orders of the Hon'ble High Court dated 12.6.2001 a Review Selection Committee meeting was held on 28.8.2001 to prepare yearwise Select Lists of

1996-97, 1998 and 1999. The Review Selection Committee did not consider the name of Sri B. Srinivasulu for the year 1999 as his name did not figure in the zone of consideration. As the combined select list of 1999 had been quashed by this Tribunal, the contention of the applicant that Sri B. Srinivasulu was neglected in the year 1999 and that he was not rated as an "outstanding" officer by the previous Selection Committee which held its meeting on 22.12.1999, basing on the assessment of his over all record is factually incorrect. The Selection Committee which met on 10.7.2002 for preparation of yearwise select list for three more years i.e.

upto 2001-2002 had assessed the records of the eligible officers upto the years 1999, 2000, 2001 and 2002 respectively. Thus the assessments of the Selection Committee for each of the Select list years were based on different set of ACRs and the Selection Committee for each of the select list years were based on different set of ACRs and so no manner of continuity can be attributed for one assessment made for consecutive select lists. There is no provision in the IPS (Appointment by Promotion) Regulations, 1985 for granting weightage in the form of grading one step above the grading obtained by the officer who has been discharging duties one step above the basic eligibility. The Principle laid down by the Full Bench of the C.A.T. in Sambhu's case vide order dated 29.10.1991 was modified by the Hon'ble Supreme Court in Prem Shankar Gupta and Anr. v. Union of India and Ors. confining it to the peculiar facts and circumstances and practicalities of the situation existing in the said case and as such, the said judgment and formula of the Hon'ble Tribunal does not have a universal applicability. Under the provisions of the Promotion Regulations, only the Selection Committee is competent to assign gradings to the officers.

12. In respect of the additional contention taken by the applicant in O.A. No. 1297/ 2002 that the seniority list which was the basis for selection is defective, the second respondent submitted that the preparation and maintenance of seniority list of State Police Service Officers is the responsibility of the State Government and it is for the State Government to make a submission in this regard.

13. Respondents 6 and 7 filed their separate reply statements in O.A.No. 1004/2002 reiterating the various contentions taken by the second respondent in their reply statement and further submitted that the respondent No. 6 could not be considered in the DPC held on 12.7.1995 for the post of Additional Superintendent of Police (Non-cadre) for the reason that there was an adverse entry in the ACR for the year ending on 31.3.1994 to the effect that he is to improve the power taking responsibility. Immediately thereafter he submitted a representation for expunction of the same which was rejected on 30.8.1997 and on further representation, the Government reviewed the entire issue and directed to expunge the adverse remarks. Thereafter, he submitted a representation on 4.8.1998 to review his case in a review DPC and accordingly he has been promoted in the review DPC conducted in December, 1998. So his service record cannot be considered as inferior in any manner to that of the applicants not at any point of time he has become junior to the applicants. In the seniority list of DSPs dated 17.8.1996 he has been shown at Sl. No. 251 whereas the applicant was shown at 277. Even in subsequent seniority list dated 12.9.1998 he was shown at Sl. No. 252 whereas the applicant was shown at Sl. No. 278. In both the seniority lists, the applicant was shown as junior to him and at no point of time the applicant has raised any objection to the same.

Moreover, the DSPs being the feeder cadre for promotion to IPS and he being senior to the applicant, the applicant cannot have any grievance against conferment of IPS to him. Respondent Nos. 6 and 7 further contended that his service records are also "Outstanding" and both of them have worked in extremists and sensitive areas and they were given commendation letters for the good work done by them.

14. Respondent No. 7 also contended that he is senior to the applicant and even if he is graded as "Very good", the applicant cannot steal a march above him since the applicant is also graded as "Very good" by the Selection Committee. Both of them further contended that non-finalisation of inter se seniority between the direct recruits and promotees in the cadre of DSP has no bearing on the present case since both of them and the applicants are the direct recruits and are also same batch of 1987. They have further contended that both these facts are liable to be

dismissed since the applicants have not impleaded proper and necessary parties though they made wild allegations against some persons.

15. We have heard the arguments advanced by the learned Counsel appearing for the applicants in both these cases and the learned standing Counsel appearing for the Respondents 1, 2, 3 and 4 and the learned Counsel for the private respondents. The learned Counsel for the applicant in O.A. No. 1004/2002 Sri N. Rama Mohan Rao vehemently contended that the applicant Sri Hari Kumar was rated as "Outstanding" for all the 5 years period which was taken into account by the Selection Committee as per the assessment of the State Government which is objectively based upon the assessment of performance of his duties and responsibilities and only the other officer who was rated as "Outstanding" for all the said 5 years by the State Government in the ACRs is Sri P. Umapathi. All the other officers considered in the eligibility list of 2002 did not secure the uniform rating of "Outstanding" during all the relevant 5 years and in spite of the fact that the applicant has "Outstanding" service records, the Selection Committee has downgraded him as only "Very Good" during the said relevant 5 years from 1997 to 2001. It is further pointed out by him that Sri P. Umapathi has been graded as "Outstanding" by the Selection Committee on the basis of the assessment made in the ACRs, whereas in the case of the applicant, the Selection Committee has arbitrarily graded him as "Very Good" without any justification. It is also pointed out by him that while the Selection Committee has neglected the respondent No. 6 Sri K. Venugopal Rao in the select list of 2002 for promotion to IPS, by giving him grading as "Outstanding" overlooking the fact that he was promoted as Additional Superintendent of Police (Non-cadre) only with effect from 5.1.1999 whereas the applicant was promoted to the said post on 12.7.1995 itself and the Selection Committee was not justified in comparing the case of the applicant with that of 7th respondent treating them as equals. It is also pointed out by him that the 7th respondent has been considered for promotion to the post of Additional Superintendent of Police only in the next DPC held on 26.12.1998, but he was found unfit for the said post in the DPC meeting held on 12.7.1995. He therefore contended that the name of the applicant should have been included in the select list in preference to 6th respondent for promotion to IPS for the year 2002 had he should have been promoted to the said post. It is also contended by him that

though the 6th and 7th respondents are senior to the applicant, the select list ought to have given weightage to the merit as required under the Promotion Regulations; and they have exercised the powers in an arbitrary manner without giving preference to the merit of the applicant. It is further submitted by him that the applicant has secured the A.P. Police Uttam Seva Padakam award and has also secured several commendation letters, personal letters and merit certificates etc., from various agencies and dignitaries in recognition of his meritorious record of service and even these facts are not taken into consideration by the Selection Committee. It is also pointed out by him that while the applicant has served in the cadre of Additional Superintendent of Police from 24.7.1995, the date from which he was promoted to the said post, the 6th respondent Sri K. Venugopal Rao continued to function in lower posts till 5.1.1999 and taking this fact into consideration, the Selection Committee ought to have given additional grading above the grading to the Respondent No. 6 relying upon the Full Bench decision of the CAT. It is further pointed out by the learned Counsel for the applicant that even 7th Respondent Sri B.Srinivasulu is not equal in merit when compared to the applicant since he was given rating as "Very Good" for the year 1997 for the remaining 4 years, his grading was "Outstanding" for all the relevant 5 years. In spite of this fact, the Selection Committee, has arbitrarily given grading to 7th respondent as "Outstanding" upgrading his service record. He therefore submitted that the decision of the Selection Committee in treating the records of service of the applicant as same as comparison to that of the 6th respondent K. Venogopal Rao and in treating the service record of 7th respondent as "Outstanding" is clearly arbitrary and not a bona fide one and on this ground itself the impugned notification dated 2.8.2002 is liable to be quashed.

16. In reply to the above submissions, the learned standing Counsel for Respondents 1 and 2 submitted that this Tribunal is not entitled to sit in judgment over the assessment made by the Selection Committee and it also not entitled to make a comparative study of the ACRs of the officers included in the eligibility list of the year 2002 and to undertake an exercise as to whether the Selection Committee is correctly graded the assessments in respect of them. He further submitted that since the Selection Committee is entitled to devise its own norms and yardstick for violation of ACRs of officers in the zone of consideration and they

need not record any reasons for the inclusion/non-inclusion of the officers in the Select list, this Tribunal is not entitled to hold that the assessment made by the Selection Committee is either without any basis or it has been done in an arbitrary manner. It is also his contention that it is not the function of the Tribunal to assess the service record of the Government servant and order his promotion on that basis and it is for the DPC to evaluate the same and make recommendations based on such evaluation. It is further submitted by him that since the 6th respondent has been promoted in the DPC meeting held on 26.12.1998 to the post of Additional Superintendent of Police after the adverse remark made in the ACR for the year ending on 31.3.1994 has been expunged, it must be taken that his promotion rolls back to the date from which his juniors have been promoted to the said post. As the contention of the applicant that the Selection Committee has compared the record of the 6th respondent who is unequal to the applicant, while assessing the relative merits of the candidates is not correct.

17. In support of the above contentions, the learned standing Counsel for the second respondent has relied upon the decision of the Supreme Court in the case of *Nutan Arvind v. Union of India and Ors.*, (1996) 2 SCC 488, wherein it has been held that when a high level Committee had considered the respective merits of the candidates, assessed the grading and considered their cases for promotion, this Court cannot sit over the assessment made by the DPC as an appellate authority.

He has also drawn out attention to another decision of the Supreme Court in the case of *U.P.S.C. v. H.L. Dev and Ors.*, AIR 1988 SC 1069=1988(3) SLJ 610 (SC), wherein it was held that how to categorise in the light of the relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. The jurisdiction to make the selection is vested in the Selection Committee.

He has also brought to our notice the law laid down by the Hon' ble Supreme Court in the case of *Smt. Anil Katiyar v. Union of India and Ors.*, 1997(1) SLR 153=1997(1) SLJ 145 (SC), wherein it was held that having regard to the limited scope of judicial review of the merits of a selection made for appointment to a service of a Police post, the Tribunal has rightly proceeded on the basis that it is

not expected to play the role of an Appellate Authority or an umpire in the acts and proceedings of the DPC and that it could not sit in judgment over the selection made by the DPC unless the selection is assailed as being vitiated by mala fides or on the ground of it being arbitrary.

18. Placing reliance on the above cited decisions, the learned Counsel for the respondent No. 2 contended that it is not the case of the applicants in both the cases that the selection of the Selection Committee was vitiated by mala fides and that there are no grounds to hold that the selection made is arbitrary because all the others selected in the impugned select list are seniors to the applicants in both the cases and they are either of equal merit or more meritorious than the applicants. He has also drawn our attention to another decision of the Supreme Court in the case of *Dalpat Abasaheb Solunke v. B.S. Mahajan*, AIR 1990 SC 434, wherein it was held that it is needless to emphasise that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinise the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject.

19. The learned Counsel for the applicant in O.A. 1297/2002 has also raised the same grounds and contentions as urged by the learned Counsel for the applicant in O.A. 1004/ 2002. In addition to the said grounds he also contended that the seniority list which was the basis for selection is a defective one as admitted by the State Government itself before the Supreme Court in a review filed in SLP 1005/2001 and so the selection ought not to have been made on the basis of the said seniority list and on this ground also the impugned notification dated 2.8.2002 is liable to be set aside.

20. In order to appreciate the rival contentions urged by the learned Counsel appearing on both sides, we have carefully perused the entire records produced before us. The applicants in both these cases were included in the eligibility list for consideration of promotion and appointment to the Indian Police Service in respect of 10 vacancies available in the year 2002 by the Select Committee. The 2nd respondent disclosed in Para 4 of the reply statement that the name of the

applicant in O.A. 1004/2002 Mr. P. Hari Kumar was considered at Sl. No.28 in the eligibility list for the year 2002 and the applicant in O.A.1297/2002 Mr. M. Kantha Rao was considered at Sl. No. 21 in the same list. It is further disclosed by the 2nd respondent that on the basis of the overall relative assessment of the service record of the applicants, the Committee has assessed both of them as "Very Good." However on the basis of this assessment, their names could not be included in the select list of 2002 due to statutory limit on the size of the select list as the names of the applicants were very low in the first of eligible officers for 2002. It is further disclosed by the 2nd respondent in the reply statement that in order to ensure justice, equity and fair play, the select committee made its own assessment of officers on the basis of an indepth examination of service record and their performance as reflected under the various columns recorded in their ACRs by reporting/reviewing/accepting authorities for different years and then only it finally arrived at the gradings to assign each eligible officer in accordance with the provisions of promotion regulations. Thus the 2nd respondent made it clear that the entries in the ACRs of the officers are main input for assessment made by the select committee. In order to appreciate the contentions urged by both sides, we have perused the ACRs pertaining to the applicants in both these cases and the ACRs of the 6th and 7th respondents in O.A.1004/2002 and the ACRs of Shri P. Umapathi. According to the gradation of ACRs of the officers included in the select list it is found that the applicant in O.A. 1004/2002 Mr. P. Hari Kumar is given the grade of "Outstanding" for all the five years prior to 2002 i.e., 1997, 1998, 1999, 2000 and 2001. Mr. P. Umapathi who is at Sl. No. 24 in the eligible list is also given grading of "Outstanding" during all the said five years and the applicant in O.A. 1297/2002 Dr. M. Kantha Rao who is at Sl. No. 21 in the eligibility list is given the grading of "Outstanding" during the years 1997, 1998, 1999, 2001 and "Very Good" for the year 2000. The 6th respondent Mr. K. Venugopal Rao who is at Sl. No. 4 in the eligibility list is given "Outstanding" during the three years viz., 1999, 2000, 2001 and "Satisfactory" in the year 1997 and "Satisfactory" and "Good" in the year 1998. The 7th Respondent in O.A. 1004/2002 Mr. B. Srinivasulu, who is at Sl. No. 8 in the eligibility list is given the grading of "Outstanding" for 4 years of 1998, 1999, 2000 and 2001 and "Very Good" and "Outstanding" in the year 1997. This information is furnished in a tabular form by

the State Government. All the above gradings were given in the ACRs by the reporting, reviewing and accepting authorities. Further in the case of the applicant Mr. P. Hari Kumar in O.A. 1004/2002 it is found that the assessment made in the ACRs throughout from the year 1993-94 (year ending 31.3.1994) is "Outstanding". It is unanimous assessment recorded by the reporting, reviewing and accepting authorities. A similar assessment is also made in respect of Mr. P. Umapathi in his ACRs. No other officer has been given the said uniform grading as "Outstanding" in their ACRs for so many years. The contention of the applicant in O.A. 1004/2002 that himself and Mr. Umapathi have been graded in the service record consistently as having maintained "Outstanding" record of performance not only during the relevant five years prior to 2002 but also even in earlier years, is found to be correct. Similarly his further contention that the rest of the officers have comparatively less meritorious record than the merit record of himself and Mr. P. Umapathi as per the assessment of the State Government, is also found to be correct. In spite of the said assessment made in the ACRs of the applicant, we are unable to understand as to how the select committee has given grading to the applicant only as "Very Good." Though the select committee is not required to show any reasons for the assessment made by them or is not bound to disclose on what parameters and norms the assessment was made by them, it must be based on the performance of the officers recorded in the ACRs. But on a perusal of the recorded notings at various entries reflecting performance of the applicant during the above relevant years, it is found that there is no scope to down grade the assessment made in the ACRs to "Very Good" by the select committee. The ACRs only disclosed the Outstanding work done by the applicant in various branches of his work and there is nothing to indicate any deficiencies on his part in any field of work entrusted to him so as to justify down grading given to him by the select committee as "Very Good" instead of "Outstanding". The DIG himself has rated him as "Outstanding" Officer in the ACRs of the above said period. Further it is found that the applicant has been awarded A.P. Police Uttam Seva Padakam by the State Government through its order dated 9.4.1994 copies of which are produced along with the O.A. It is also found that all through the applicant has been awarded commendation letters, appreciation letters, merit certificates etc., by various agencies and dignitaries in recognition of his meritorious record of service,

copies of which are produced along with the O.A. The applicant has also secured certificate of appreciation and medal from U.N. after he served U.N. Mission in Kosovo during the period 2001-2002 copies of which are produced along with the O.A. It is recorded by the reporting officer in his ACR for the period ending 31.3.1998 that he is very balanced and capable police officer. He is analytical and systematic in approach. He has performed exceedingly well during Lok Sabha elections in February, 1998. He is particularly good at crime detection and performed excellently in detecting many dacoity/robbery gangs in the Range Crime Control Squad. His overall performance was of a high standards and Outstanding and there is nothing adverse against his integrity. "In the ACR the Inspector General of Police and the DG and IGP have agreed with the said remarks noted by the reporting officer. Similar remarks are also found in the ACR of other years. As regard to the said track record, we are unable to find any justification for the assessment made by the select committee in respect of him as only "Very Good". The Hon'ble Supreme Court held in a decision reported in 1992 SCC (L&S) 959 in the case of "National Institute of Mental Health and Neuro Sciences v. K. Kalyana Raman "Giving of reasons for decision is different from, and in principle distinct from, the requirements of procedural fairness. The procedural fairness is the main requirement in the administrative action. The 'fairness' or 'fair procedure' in the administrative action ought to be observed. The Selection Committee cannot be an exception to this principle. It must take a decision reasonably without being guided by extraneous or irrelevant consideration." 21. In the instant case, on a perusal of the ACRs pertaining to the applicant Mr. Hari Kumar, we are unable to hold that the select committee has acted in fairness or adopted fair procedure in making the assessment of the applicant as only "Very Good" which clearly amounts to down grading the assessment made in the ACRs of the applicant continuously for a period of 8 years prior to 2002 without any justification.

22. As rightly pointed out by the learned Counsel for the applicants in both these cases, Mr. K. Venugopala Rao who is 6th respondent in O.A.1004/2002 came to be promoted as Addl. SP when the DPC meeting was held on 26.12.1998 and only with effect from 5.1.1999 he worked in that post. Till 5.1.1999 he continued to function in the lower post. But the applicants in both these cases were shouldering

higher responsibilities right from 25.7.1995 in the cadre of Addl. SP for more than 3 1/2 years than the 6th respondent. In spite of it, the 6th respondent has been assessed as "Very Good" by the select committee by giving the same grading which is given to the applicants in both these cases. Further it is also found that as per the assessment made in the ACRs during the years 1997 to 2001 he was graded as "Satisfactory" during 1997 and "Satisfactory" and "Good" in the year 1998 and "Outstanding" during the remaining three years of 1999, 2000 and 2001 whereas the assessment made in respect of the applicant Mr. P. Hari Kumar is "Outstanding" during all the said years and even in the earlier years .1994 to 1995.

Even in respect of other applicant Mr. M. Kantha Rao the assessment made in the ACR is "Outstanding" for four years during the said period and "Very Good" during the year 2000. Thus it is found that in making the assessment, the select committee has not acted in a fair manner and has given the above gradings in an arbitrary manner in respect of the above officers.

23. It is also pointed out by the learned Counsel for the applicants that a Full Bench of this Tribunal in Sambhu's case in O.A. 306-308/90 dated 29.10.99, has held that the persons discharging duties in one grade above basic eligibility are liable to be given weightage in the form of grading one step above the basic eligibility. The learned Counsel for the applicant therefore contended that the applicants who have been officiating in the higher post from 1995 onwards ought to have been graded one step higher by the Select Committee. In reply to this submission, the learned standing Counsel for the respondents submitted that the Hon'ble Supreme Court modified the above decision rendered in Sambhu's case by Full Bench of this Tribunal, in Prem Shankar Gupta and Anr. v. Union of India and Ors. (SLP (C) No.5259-60/91 with SLP (C) No. 14447/97 and allied matters) confining it to the peculiar facts and circumstances and practicalities of the situation existing in the said case and as such the said judgment and formula does not have an universal applicability. But even in the instant case we find that in peculiar facts and circumstances of the case the above principle in Sambhu 's case can be applied. Though it is pointed out by the learned standing Counsel for the respondents that there is no provision in IPS (Appointment by Promotion) Regulations, 1955 for granting weightage in the form of one step above the

gradation obtained by the officer who has been discharging duties in lower grade, in our view, the said fact is also to be borne in mind while making comparative assessment of the officers in the eligibility list, in addition to the notings made in the ACRs regarding performance, character, integrity, ability and efficiency of the officer and the assessment made by the 3 authorities viz., reporting, reviewing and accepting authorities. Even accepting the said contention of the learned standing Counsel for the 2nd respondent that the above said fact cannot be taken into consideration, we are unable to find any justification for giving lower grading to the applicant as "Very Good" when he has got 'Outstanding' record right from 1993-94 till 2001 as reflected in the ACRs. It is clearly demonstrated from the above facts that even on comparative assessment of relative merits of the officers included in the select list, we find that the select committee has not acted in a fair manner in giving the grading as "Very Good" in respect of the applicant in O. A. 1004/ 2002 Mr. P. Hari Kumar.

The learned Counsel for the 2nd respondent has relied upon a decision in the case of "Anil Katiyar (Mrs.) v. Union of India and Ors." (supra) wherein it was held that, "Court cannot sit in the judgment over the selection made by the DPC unless the selection is vitiated by mala fide or is arbitrary.

However, the Tribunal could not go into the question as to whether the appellant had been rightly graded as "Outstanding" in the ACRs." 24. Placing reliance on the above decision it is contended by him that this Tribunal cannot sit in judgment over the selection made by the select committee. But in the instant case as the selection is assailed on the ground of, it being arbitrary, this Tribunal is entitled to find out from the records produced as to whether any such ground is made out. It is in this context the entries in the ACRs of the applicants have been verified by us and on the verification so made we have come to a conclusion that injustice has been done to the applicant by the select committee in giving him lesser grading as "Very Good" thereby excluding him from the select list though it is proved from the record that he has been rated as "Outstanding" officer from the year 1993-94 by the concerned authorities of the State Government. Further we find it necessary to make it clear that we are not indulging in any exercise of making any independent assessment of the ACRs of applicants. But we are basing our findings on the basis

of the recorded opinion of various authorities of State Government in the ACRs.

25. In a decision of the Supreme Court reported in AIR 1987 SC 593=1987(2) SLJ 56 (SC), in the case of "R.S. Dass v. Union of India and Ors." at page 596 it was held that, "Regulations 3 and 5 of Indian Administrative Service (Appointment by Promotion) Regulations, 1995 are not discriminatory and do not violate Articles 14 and 16 of the Constitution. It cannot be said that the regulations do not lay down any guidelines for categorisation of officers of the State Service into various categories for the purpose of selection and therefore the Committee even if acting bona fide may apply different standards at different times. The Committee is not free to categorise officers at its sweet will. Under Regulation 5 the Committee has to categorise officers on the basis of their service records into four categories. The categorisation is objectively made on the material available in the service records of the officers. There is hardly any scope for applying different standards or criteria at different times as the service records namely the character roll entries would indicate the category of the officers as adjudged by the authority recording annual confidential remarks.

26. In view of the above ruling of the Supreme Court it is clear that the select committee is not free to categorise the officers at its sweet will and the categorisation must be made on the material available in the service record of the officers. In the instant case the service record of the applicant in O.A. 1004/2002 disclosed that he was rated as "Outstanding" officer continuously for a period of seven years from 1993-94 in his service records. It is further found that he has an unblemished record and he is found to be an officer of unquestionable integrity and character and has been discharging his duties in commendable manner in whichever branch of work entrusted to him as reflected by various entries made in the ACRs and details noted with specific instances of the work done by him. Having regard to the said service records, we are constrained to hold that the select committee has not acted fairly and has not followed fair procedure and made assessment in an arbitrary manner and in that process has done a great injustice to the applicant in eliminating him from the select list of the year 2002 for promotion and appointment to IPS. If State Police Officers of Outstanding merit were to be denied promotion in this manner, it would generate frustration and heart burning among the members of the State Police Service which would

obviously be detrimental to the public administration. Whatever standards, norms and parameters might have been applied by the select committee, we find that there is no scope to eliminate the applicant from the select list having regard to the excellent service record of him. In this context, we find it relevant to refer to the observations of the Supreme Court in Sehgal's case reported in 1992 Supp. (1) SCC 304 wherein it was held, "The chances of promotion and the aspiration to reach higher echelons of service would enthuse a member of all the service to dedicate himself assiduously to the service with diligence, exhibiting expertise, straightforwardness with missionary zeal, self-confidence, honesty and integrity, the absence of chances of promotion would generate frustration and an officer would tend to become corrupt, sloven and a mediocre. Equal opportunity is a fertile resource to augment efficiency of the service." 27. When there is absolutely nothing in the ACR of the applicant indicating any deficiency or demerit in him, we are unable to understand how a lesser rating to the applicant can be given as "Very Good" ignoring continuous and uniform assessment of "Outstanding" given to him by the three authorities of State Government under, whom he has directly worked. In the circumstances, the only irresistible conclusion that can be reached is that the select committee has acted in an arbitrary manner in making the assessment in respect of this applicant.

28. In Anil Katiar's case (supra) on facts it is found by the Supreme Court that the assessment made is justified having regard to the confidential process adopted by the select committee which has been disclosed by the UPSC to the Court. Though such procedure adopted has not been disclosed to us by the 2nd respondent, there is no material in the ACRs of the applicant for the relevant year to down grade the applicant's assessment as "Very Good" from "Outstanding". On the other hand it is found that for continuous period of 8 years from 1993-94 till 2001 the applicant has been adjudged as "Outstanding" in the ACR by all the three competent authorities of State Government. So it is understandable how the assessment of the applicant could be down graded as Very Good by the select committee. The assessment made by the select committee is found to be arbitrary for the following reasons:-- (i) On the basis of the intrinsic evidence furnished by the ACRs, the assessment made in respect of Mr. Umapathi and the applicant are found to be Outstanding for five years preceding the year of consideration i.e.,

2002 and even earlier 3 years. While Mr.

Umapathi's assessment in the ACRs remained unchanged and unaltered in the assessment of the select committee, the applicant's assessment is down graded to "Very Good" by the select committee for no identifiable or justifiable reasons. Even in respect of the applicant in O.A. 1297/2002 Dr. M. Kantha Rao, he was adjudged as "Outstanding" in the ACRs for the year 1996-97, 1998, 1999 and 2001 and as "Very Good" by the reporting officer for the year 2000 which has been revised by the Head of the Department and the reviewing authority as "Outstanding". But the select committee has down graded him as "Very Good" for no justifiable reasons.

(ii) Both the applicants were promoted to the post of Addl. SP (Adhoc) in the year 1995 itself and they have served continuously for six years prior to 2002 in that higher post whereas the 6th respondent Mr. K. Venugopala Rao was promoted to the said post only in the year 1999 and he served in that post only for two years and odd prior to 2002 and inspite of this fact he has been given same grading as "Very Good" along with the applicant which clearly indicates that there is no fairness in the action and no procedural fairness has been observed. Further as already pointed out by us, as per the Full Bench decision of the Central Administrative Tribunal, Hyderabad in S.S. Sambhu 's case in O.A. 306-308/90 dated 29.10.1999 which has been approved by the Supreme Court in the case of "Prem Sankar Gupta and Anr. v. Union of India and Anr." in an another case of "Shiv Kumar Sarma v. Union of India" in C.A. No. 10396/95 dated 21.1.97, both the applicants must have been given one grading above the grading given to the 6th respondent.

(iii) So far as the 6th respondent Mr. K. Venugopal Rao is concerned as per the assessment made in the ACRs only for two years during 1999 and 2000 he was adjudged as "Outstanding" and during the year 1997 his assessment is found to be "Satisfactory" and for the years 1998 and 2001 the assessment made is only "Very Good." Further it is also pointed out by the applicant that the 7th respondent who was earlier considered in the year 1999 by the select committee was assessed only as "Very Good" and subsequently after cancellation of the said selection the select committee has upgraded him as "Outstanding." So far as the

7th respondent, Mr. B. Srinivasulu is concerned, he had only four "Outstanding" and one "Very Good" assessment in his ACR and he is upgraded by the select committee in his assessment as "Outstanding". Thus the applicants who were assessed as "Outstanding" have been kept out of the race by the select committee by down grading them as "Very Good" for no justifiable reasons.

It is also found from the records that the applicant in O.A. 1297/2002 Mr. Kantha Rao has been awarded two advance increments by the State Government for his efforts in preventing and detecting serial killings in Chittoor District which claimed more than 20 lives and when he identified sensational tax evasion cases of worth more than 20 crores and brought several scams out while working in the Vigilance and Enforcement Department. He has been awarded Seva Pathakam on the eve of Telugu New Years Day "Ugadi" in the year 1965. He has also been awarded Telugu Uttama Seva Patram on the occasion of A.P. Formation Day in the year 2001 in recognition of his meritorious service. This applicant has furnished a list of cash awards given to him which are 32 in number and a list of commendation letters which are 35 in number at Annexure A-III filed along with the O.A. Thus comparatively it is found that both the applicants have better service records and assessments than the respondents 6 and 7 and they have equal "Outstanding" record as that of Mr. Umapathi. But still both the applicants are graded by the select committee only as "Very Good," whereas 7th respondent Mr. B.Srinivasulu and Mr. Umapathi were assessed as "Outstanding" and the 6th respondent as 'Very Good' by the select committee on the basis of the same ACRs furnished to them. Further from the above facts it is clear that the relevant considerations have not been taken note of and several relevant aspects have been ignored by the select committee while making the assessment of the officers in the eligibility list. It is also found that the said administrative decision taken by the select committee has no nexus to the facts on record. According to Regulation 5(4) of IPS (Appointment by Promotion) Regulations, 1955, the select committee shall classify the eligible officers as "Outstanding," "Very Good," "Good," Unfit" as the case may be on an overall relative assessment of their service records. Thus the entries in the service records are the basic inputs to be taken into consideration and the assessment ought to have been made by the select committee on the basis of the above said guidelines given in Regulation 5(4). The above said provisions of

Regulations have been introduced in order to maintain certain amount of transparency by the Selection Committee in the matter of selection. Since it is found that the assessment made by the select committee in respect of the applicants is not based on the above said guidelines given in Regulation 5(4) and they were given lesser gradings for no justifiable reasons when compared with the assessment of the 6th and 7th respondents and Mr. Umapathi for the above mentioned reasons, we have no hesitation to hold that the procedure in reaching decision has not been observed correctly by the select committee while considering the cases of the applicants vis-a-vis the cases of the 6th, 7th respondents and Mr. Umapathi. On a perusal of the ACRs of the applicants and their in-depth study, any reasonable body of men would get an impression that the entire service profile of the applicants has not been taken care of by the authorities concerned in the appraisal of the total profile. The applicants' feeling that they did not get best of the deal at the hands of the select committee, in our view, is therefore justified. Thus we find that the select committee has not discharged obligation cast on it objectively rendering the entire selection vulnerable and promotions based thereon invalid. No record has been shown to us on the basis of which it could be prima facie assumed that the 6th and 7th respondents have any better merit than the applicants. We are aware of the limitation of not substituting our opinion for the opinion of the select committee in making selection.

But as the select-committee has relied only upon the ACRs of the officers of the eligibility list which disclosed that the applicants have comparatively better record of service than the 6th and 7th respondents and equal merit record of Mr. Umapathi, we have no hesitation to come to the conclusion that the select committee has not followed proper procedure as required under Regulation 5(4) of the IPS (Appointment by Promotion) Regulations, 1955 and acted in an arbitrary manner in making the selection. As rightly pointed out by the learned Counsel for the applicants, 6th respondent who could not be found fit for being promoted into State Cadre itself in 1995 till 1999 would never have stolen a march over the applicants when it comes to induction of candidates into All India Service cadre. Though it is contended by the learned standing Counsel for the respondents and 2 that it is solely the domain of the Selection Committee to devise norms and yardsticks for evaluation, the said norms and yardsticks which can be adopted must be

in conformity with the statutory provisions and not contrary to them. The select committee is not expected to travel beyond the provisions of Regulation 5(4) of the IPS (Appointment by Promotion) Regulations for evaluating the officers. In the instant case for the reasons given in the foregoing discussion it is found that the assessment made by the select committee is not strictly in conformity with the provisions of Regulation 5(4) of the said IPS (Appointment) Regulations, 1955. We therefore find that the impugned notification dated 2.8.2002 is liable to be set aside and a direction is to be given to the respondents to reconsider the cases of the applicants in both these O.As. properly.

29. It is also contended by the learned Counsel for the applicant in O.A. 1297/2002 that the seniority list which was the basis for selection is defective one as admitted by the State Government itself before the Hon'ble Supreme Court in an affidavit filed in SLP 7615/ 2001 and the list of eligible officers ought not to have been drawn from out of the said seniority list and selection ought not to have been made on the basis of the said list of eligible officers by the select committee. But we are unable to persuade ourselves to accept this contention since there is no dispute that all the eligible candidates are of direct recruits of Dy. SP cadre of 1987 batch and there is no seniority dispute inter se among them. It is found from the records that the seniority list has been prepared by the State Government in accordance with the directions given by the Andhra Pradesh Administrative Tribunal in O.A. Nos. 4977/94, 6506/94, 5841/93 and 5974/93 and 4977/94 by orders dated 7.6.1995 and correctness of the same has been challenged before the Supreme Court by some of the aggrieved officers. It is also an admitted fact that operation of the said final seniority list has not been stayed by the Supreme Court in SLP 7615/01, So the State Government is entitled to draw the list of eligible candidates in the zone of consideration as per their seniority in the list i.e., 30 candidates for the 10 vacancies of 2002 to be filled up and the said procedure has been followed by the State Government. In the circumstances we find no merit in the above submission of the learned Counsel for the applicant in O.A. 1297/2002: 30. In the result, both these applications are allowed. The impugned notification dated 2.8.2002 of the Ministry of Home Affairs Government of India No. 1-14011/1/2002--IPS-I, is hereby set aside holding that it is arbitrary, unjust and unsustainable declaring that the action of the official respondents is not properly

considering the claims of the applicants for promotion to the Indian Police Service for the year 2002 for A.P. State is arbitrary, unjust and violative of Articles 14 and 16 of the Constitution of India. The respondents are directed to reconsider the cases of the applicants in both these cases properly by calling a fresh select committee meeting for appointment by promotion of the State Police Service Officers to the Indian Police Service for the year 2002 and to issue a fresh notification in respect of appointment of list of selected candidates to Indian Police Service to be given effect from 2.8.2002 with all consequential benefits such as year of allotment, pay fixation etc. Time for compliance is final three months from the date of receipt of a copy of this order. In the circumstances we direct the parties to bear their respective costs.

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