



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2026

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THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 14858 of 2016

AND

WMP NO. 12993 OF 2016

D.Murugesan

..Petitioner(s)

Vs

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Home Department, Secretariat,
Fort St. George, Chennai-600 009.

2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified mandamus, to call for the records relating to the impugned proceeding issued by the 2nd respondent in Rc.No.117237/GB 2(2)/2014 dated 21.03.2015 and to quash the same and consequently directing the respondents to promote the petitioner to the post of Deputy Superintendent of Police on inclusion of his name in the panel for the year 2012-13 with crucial date 01.06.2012 on par with his juniors with all consequential and other attendant benefits including arrears of salary.

For Petitioner(s): Mr.J.Jayamalan

For Respondent(s): Mr.P.Kumaresan, AAG, assisted by
Mrs.S.Anitha Spl. Govt. Pleader



ORDER

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The petitioner in the present writ petition challenges the endorsement dated 21.03.2015 issued by the second respondent, by which the petitioner's claim for promotion to the post of Deputy Superintendent of Police (DSP), by inclusion of his name in the panel for the years 2011–12, 2012–13, and 2013–14, was rejected.

2. While serving as an Inspector of Police, the petitioner had earlier filed a writ petition in W.P. No.18780 of 2014 before this Court, seeking promotion to the post of Deputy Superintendent of Police by inclusion of his name in the panel for the year 2012–13. The said writ petition was disposed of by an order dated 13.01.2015, granting liberty to the petitioner to submit a representation to the respondents for consideration of his claim. Pursuant to the said direction, the petitioner submitted a representation, which was considered by the second respondent, culminating in the issuance of the impugned endorsement.

3. The learned counsel for the petitioner submitted that for the panel years 2012–13 and 2013–14, the petitioner's claim for promotion to the post of Deputy Superintendent of Police ought not to have been rejected merely on the ground



that an order of punishment was in currency, particularly when the subsequent charge memo was issued only after the crucial date. In support of this contention, reliance was placed on the orders passed by this Court in ***W.P. No.30109 of 2013*** (disposed of on 24.02.2015) and the judgment of the Division Bench in ***W.A. No.217 of 2020*** (reported in ***2021 SCC OnLine Madras 1729***).

4. Per contra, the learned State Counsel submitted that as on the crucial date, the order of punishment imposed on the petitioner was in force and that a charge memo had also been issued against him for misconduct. Therefore, according to the learned State Counsel, the petitioner was not eligible for promotion to the post of DSP. It was contended that the second respondent, having taken into account all relevant factors, rightly issued the impugned endorsement, which does not call for interference.

5. Heard the learned counsel for the petitioner and the learned State Counsel appearing for the respondents.

6. The petitioner does not press his claim for promotion to the post of Deputy Superintendent of Police for the panel year 2011–12, since an order of punishment was admittedly in currency as on the crucial date, namely 01.06.2011.



The dispute is confined to the panel year 2012–13 and 2013-14. The petitioner contends that two punishments were imposed on him:

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- (i) an order dated 07.07.2009 imposing punishment of postponement of increment for two years with cumulative effect, which came to an end on 06.07.2011; and
- (ii) an order dated 29.01.2010 imposing punishment of postponement of increment for two years without cumulative effect, which concluded on 28.01.2012.

Both punishments had thus ceased to operate prior to the crucial date of 01.06.2012. The learned counsel further submitted that the subsequent disciplinary proceedings, including the issuance of a charge memo dated 14.02.2013, occurred after the crucial dates for the panel years 2012–13 and 2013–14 and therefore, could not operate as a bar for consideration of the petitioner's promotion during the relevant panel years.

7. The learned State Counsel contended that the punishment of postponement of increment takes effect only from the date on which the next increment becomes due. However, a Coordinate Bench of this Court, while considering an identical issue in *W.P. No.30109 of 2013*, relied upon the Full Bench decision in *W.A. (MD) Nos.315 of 2010 etc., batch*, which held that administrative instructions or Government letters cannot be equated to statutory



rules framed under the proviso to Article 309 of the Constitution of India, and that such instructions have no statutory force.

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8. Applying the said principle, the learned Single Judge held that the punishment of postponement of increment commences from the date on which the punishment order is served on the delinquent officer and not from the date of the next increment. It was further held that the Government cannot rely upon executive instructions lacking statutory force to contend otherwise. Consequently, the contention advanced by the learned State Counsel in the present case is unsustainable and stands rejected.

9. The Division Bench of this Court, in ***Government of Tamil Nadu v. M. Balamohana Murugan (W.A. Nos.271 of 2020 and 626 of 2021)***, by judgment dated 02.09.2021, held that the pendency of disciplinary proceedings initiated after the crucial date cannot be a bar for consideration of a Government servant for promotion. The Division Bench reiterated the settled position that mere pendency of investigation or filing of cases would not disentitle an employee from inclusion in the promotion panel unless charges were framed or a charge sheet was filed as on the crucial date.



10. In the present case, the charge memo was admittedly served on the petitioner only after the crucial date, i.e., 01.06.2012. Therefore, there was no legal impediment to the inclusion of the petitioner's name in the panel for promotion to the post of Deputy Superintendent of Police for the panel year 2012-13. The impugned endorsement issued by the second respondent is thus arbitrary, discriminatory, and legally unsustainable.

11. Accordingly, the impugned endorsement dated 21.03.2015 is quashed, and the writ petition is **allowed**. The respondents are directed to promote the petitioner to the post of Deputy Superintendent of Police with effect from 01.06.2012 on a notional basis and to extend all attendant benefits, including revision of pension and pensionary benefits. However, the petitioner shall not be entitled to arrears of salary. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

08-01-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Home Department, Secretariat,
Fort St. George, Chennai-600 009.
2. The Director General of Police,
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HEMANT CHANDANGOUDAR J.

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