



WEB COPY

WP No. 28750 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-01-2026

CORAM

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

**WP No. 28750 of 2015
and
W.M.P.No.32534 of 2016**

Eswaran,
S/o. Iyyanar,
No. 5/171-A, Angammal Colony,
New Bus Stand, Salem-9.

..Petitioner

Vs

1. The Principal Secretary to Government,
Home Department, Fort St. George,
Chennai - 600 009.
2. The Director General of Police,
D.G.P. Office,
Chennai - 600 004.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking
a Writ of Certiorari, calling for the records relating to the impugned order dated
07.07.2015 in G.O.Ms. No. 527 Home (Pol.1A) Department on the file of 1st
respondent and quash the same.

For Petitioners:
For Respondents:

Mr.A.Kalaivanan
Mr.P.Kumaresan
Additional Advocate General
assisted by
Mrs.R.L.Karthika
Government Advocate



ORDER

WEB COPY

The petitioner challenges the order dated 07.07.2015 bearing G.O.Ms.No.527, Home (Pol.1A) Department. By the said order, the petitioner, who had been temporarily promoted as Superintendent of Police (Non-Cadre), was reverted to the post of Additional Superintendent of Police (Category-I) with immediate effect.

2. The petitioner, while serving as Additional Superintendent of Police, was promoted to the rank of Superintendent of Police, and such promotion was sanctioned against a vacant post vide G.O.Ms.No.518 dated 10.07.2012.

3. While the petitioner was working in the promoted post, he was issued a show cause notice calling upon him to explain as to why he should not be reverted to the post of Additional Superintendent of Police, on the ground as on the crucial date that a charge sheet had been filed against him before the trial Court in a criminal case. The petitioner submitted his explanation to the said show cause notice. However, the respondent rejected the same and passed the impugned order.

4. Mr. A. Kalaivanan, learned counsel for the petitioner, submitted that the impugned order was passed by invoking Rule 4(a) of the General Rules for the Tamil Nadu State and Subordinate Service Rules (hereinafter referred to as “the said Rules” for the sake of brevity, convenience, and clarity). It was further contended that the said Rules came into effect only from 24.02.2014 and,



therefore, invocation of the said Rules retrospectively is impermissible in law. Consequently, the order of reversion is arbitrary, discriminatory, and liable to be set aside.

5. In response, Mr. P. Kumaresan, learned Additional Advocate General, submitted that on the crucial date, a charge sheet had already been filed against the petitioner in a criminal case. He further submitted that, as per Rule 4(a) of the said Rules read with G.O.Ms.No.368, Personnel and Administrative Reforms Department, dated 18.10.1993, and Government Letter dated 07.10.2005, it is specifically provided that where specific charges have been framed or a charge sheet has been filed in a criminal case against a member of service, the promotion or appointment of such person shall be deferred till the conclusion of such proceedings. In the present case, as the criminal proceedings before the trial Court have not yet concluded, the promotion of the petitioner ought to have been deferred on the crucial date. Taking into account the above facts, it was contended that the impugned order does not warrant any interference.

6. The arguments advanced by the learned counsel appearing for the parties and the materials available on record have been duly considered.

7. The first respondent, vide order dated 12.07.2012, promoted the petitioner to the post of Superintendent of Police (Category-I) against a sanctioned vacant post, subject to the outcome of SLP Nos.447 and 448 of 2008 filed by the State. Admittedly, SLP Nos.447 and 448 of 2008 filed by the State were dismissed by the Hon'ble Supreme Court on 27.02.2017. The impugned



order has been passed by invoking amended Rule 4(a) of the said Rules, which reads as follows:

WEB COPY

“SCHEDULE – VII

[See Rule 4(a)]

PART-A

I. Procedure for preparation of approved list :-

(1).....

(2)

(3)

II. Consideration of members for inclusion in the approved lists:-

(1) In cases where enquiry (except Tribunal for Disciplinary Proceedings enquiry) including preliminary or detailed enquiry by the appropriate Investigating Authority is pending against a member of service and no specific charges have been framed, promotion or appointment of such member of service shall be considered on the basis of the merit revealed through Annual Confidential Reports, Record Sheets and Punishments imposed. In cases where specific charges have been framed or a charge sheet has been filed in a criminal case against a member of service, promotion or appointment of such member of service shall be deferred till such proceedings are concluded. On exoneration or acquittal from the charges, a member of service shall be considered for promotion or appointment with retrospective effect from the date on which his immediate junior was promoted, if he is otherwise qualified for such promotion.”



8. A plain reading of the amended Rule 4(a) of the said Rules, which came into effect on 24.02.2014, indicates that where a charge sheet has been filed in a criminal case, promotion shall be deferred till the conclusion of such proceedings and, upon exoneration or acquittal of the charges, the member of service shall be considered for promotion with retrospective effect. In the present case, the criminal proceedings have not yet concluded. However, the petitioner was promoted to the post of Superintendent of Police vide order dated 10.07.2012, much prior to the amendment of Rule 4(a) of the said Rules. Therefore, Rule 4(a) of the said Rules cannot be invoked retrospectively in the case of the petitioner, whose promotion was effected as early as in the year 2012.

9. The learned Additional Advocate General placed reliance on G.O.Ms.No.368, Personnel and Administrative Reforms Department, dated 18.10.1993, to contend that, as per the said Government Order, where a charge sheet has been filed, promotion shall be deferred till the conclusion of the proceedings, which may culminate in the acquittal of the government servant.

10. Per contra, the learned counsel for the petitioner placed reliance on the decision of the Full Bench of this Court in ***Deputy Inspector General of Police and another v. V. Rani [2011 (3) L.W. 673]***, wherein it was held that while the Government cannot amend or supersede statutory rules by administrative instructions, it may, if the rules are silent on a particular point, fill up gaps and



supplement the rules by issuing instructions, provided such instructions are not inconsistent with the rules already framed. It was further held that any addition by way of administrative instructions imposing additional requirements cannot be sustained in the eye of law. Therefore, the Government is not competent to alter or modify the rules framed under Article 309 of the Constitution of India by issuing administrative instructions.

11. In light of the above authoritative pronouncement, the reliance placed by the learned Additional Advocate General on G.O.Ms.No.368, Personnel and Administrative Reforms Department, dated 18.10.1993, which provides for deferment of promotion in cases where a charge sheet is pending before the trial Court, is misplaced and contrary to Article 309 of the Constitution of India, as well as the legal principles laid down by the Full Bench of this Court in the aforesaid decision.

12. The notification dated 24.02.2014 states that the amendment shall be deemed to have come into effect from 18.10.1993 and that subsequent amendments shall operate from time to time, in order to ensure that the legal validity of processes and procedures already in place is not disturbed and that proper legal sanctity is continuously provided for the preparation of approved lists and consequential promotions in force. However, such an amendment with retrospective effect cannot be made applicable to persons who have already been promoted, nor can their promotions be disturbed.



13. The petitioner was promoted prior to the amendment of Rule 4(a), and the promotion was made in accordance with the rules then in force. Such a promotion, having attained finality, cannot be disturbed by a subsequent amendment. The notification amending Rule 4(a) itself makes it clear that the amendment is not intended to disturb promotions already effected. In the absence of any express provision permitting reopening of past promotions, the amended rule cannot be applied retrospectively to the petitioner. Any attempt to do so would be arbitrary and contrary to settled principles of service law.

14. In light of the above discussion, I am of the considered view that the impugned order passed by the first respondent reverting the petitioner to the post of Additional Superintendent of Police (Category-I) is arbitrary, discriminatory, and legally unsustainable, and the same is liable to be quashed.

15. Accordingly, the captioned Writ Petition is allowed. The impugned order dated 07.07.2015 passed by the first respondent is hereby quashed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

19-01-2026

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

mk



WEB COPY

WP No. 28750 of 2



HEMANT CHANDANGOUDAR, J.

mk

To

1. The Principal Secretary to Government,
Home Department, Fort St. George,
Chennai - 600 009.
2. The Director General of Police, D.G.P. Office,
Chennai - 600 004.

WP No. 28750 of 2015

19-01-2026