



D.Ravi v. Government of Tamil Nadu, (Madras)(Madurai Bench) : Law Finder Doc Id # 2766548

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MADRAS HIGH COURT

(Madurai Bench)

Before:- [A.D. Maria Clete, J.](#)

W.P.(MD)Nos. 6529, 6530, 6531, 6532, 6533, 6534, 6535, 6536, 6537, 6538, 9189, 9190, 9191, 9192, 9193, 9194, 9195, 9196, 9197 and 9198 of 2017 and W.M.P.(MD)Nos. 5129, 5137, 5139, 5135, 5121, 5123, 5125, 5133, 5127, 5131 of 2017, 6971, 6973, 6975, 6977, 6979, 6981, 6983, 6985, 6987, 6989 of 2017, 10918, 10919, 17516, 17517, 17492, 17515, 17493, 17487, 17488, 17489, 17491 & 17518 of 2018 and 10447, 10552, 11403, 11404, 11405, 10783, 10781, 13106, 10813 and 11406 of 2019. D/d. 21.08.2025.

D.Ravi and ors. - Petitioners

Versus

The Government of Tamil Nadu and ors. - Respondents

For Petitioners:- Mr. K.Venkataramana, Senior Counsel For Mr. J.Antony Arul Raj, Advocate

For Respondents:- Mr. Veerakathiravan, Additional Advocate General-II, Assisted by Mr. J.Ashok, Additional Government Pleader

IMPORTANT

Accelerated promotion granted to police personnel as part of a Government scheme cannot be extended beyond the scope of the policy; Government has the authority to rectify mistakes and revert personnel to appropriate ranks.

A. Service Law - Accelerated promotion scheme for police personnel - Government of Tamil Nadu issued G.O.Ms. No. 1252, Home (Pol.VIII) Department, dated 29.10.2004, granting one-stage accelerated promotion to members of the Special Task Force who participated in the operation against forest brigand Veerappan - Petitioners erroneously granted double promotion - Government subsequently issued G.O.Ms. No. 959, dated 10.11.2009, to rectify the mistake and limit promotion to one stage - Petitioners challenged the reversion orders, claiming violation of principles of natural justice - Held, Government has the authority to rectify errors in implementation of its policy; reversion orders passed after providing opportunity of hearing were valid.

[Paras [4](#), [5](#), [8](#), [11](#), [18](#)]

B. Service Law - Natural justice - Petitioners claimed reversion orders were passed without adhering to principles of natural justice - Initially, reversion orders were set aside by the Court for lack of notice - After compliance with procedural requirements, including issuance of show cause notices and consideration of responses, final reversion orders were upheld as valid and in accordance with law.



[Paras [7](#), [8](#), [18](#)]

C. Service Law - Temporary promotion - Substantive post - Government has the authority to revert temporary promotees to their original substantive posts when promotions are found to be erroneous - Petitioners holding temporary posts were not eligible for higher promotions under the scheme at the relevant time - Reversion does not violate service rules or principles of equity.

[Paras [10](#), [17](#), [18](#)]

Cases Referred :-

[K. Madalaimuthu v. State of Tamil Nadu, AIR 2006 SC 2662, \(2006\) 6 SCC 558](#)

[T.L. Ranganathan v. Inspector General of Police \(Armed Police\), Chennai, dated 07.06.2013 W.P. Nos. 15653 to 15658 of 2009](#)

COMMON JUDGMENT

A.D. Maria Clete, J. - Heard.

2. The vexed issue arising from the accelerated promotions granted to members of the police force for their participation in the operation culminating in the hunting and killing of the forest brigand Veerappan has repeatedly engaged the attention of this Court through multiple litigations. In the present case, the controversy turns on whether the petitioners are entitled only to one promotion from their substantive post, or whether such accelerated promotion can also be reckoned from a temporary post so as to confer upon them the unintended advantage of securing a further promotion to the next higher post.

3. In the present batch, the ten writ petitioners have instituted two distinct sets of writ petitions. In the first set, the common prayer was to quash G.O.(Ms.) No. 276, Home (Pol.VIII) Department, dated 01.04.2017, issued by the first respondent. Notwithstanding that all ten writ petitions in the first set substantially sought the same relief, the petitioners thereafter instituted a second set of writ petitions, wherein they sought quash of consequential reversion to the lower post.

4. The Government of Tamil Nadu, with a view to confer accelerated promotion on members of the Special Task Force who participated in the encounter resulting in the death of the forest brigand Veerappan, issued G.O.Ms. No. 1252, Home (Pol.VIII) Department, dated 29.10.2004. The said order unequivocally provided that the accelerated promotion would be by one stage from the rank then held by the concerned personnel. In the Annexure to the said order, the names of the petitioners were included at Serial Nos. 134 to 150 (though some among them are not parties to the present writ petitions), where the accelerated promotion was to be granted to the rank of Sub-Inspector of Police. However, the petitioners were not holding the post of Havildar at the relevant point of time but due to mistake, they were all promoted to the post of Sub-Inspector, which was contrary to the spirit of the Government Order.

5. Subsequently, the Government, having found that the accelerated promotion contemplated under G.O.Ms. No. 1252, dated 29.10.2004, was intended to operate only from the original rank then held to the next higher rank, and that the benefit had been erroneously extended beyond such scope, issued G.O.Ms. No. 959, Home (Pol.VIII) Department, dated 10.11.2009, rectifying the anomaly. In the



said order, specific reference was made to five constables who had been granted promotion to the rank of Naik. Paragraphs 2 to 5 of the order read as follows:-

"2. After examining the reasons stated by the Director General of Police in his letters fourth read above that in view of very little time available in verifying the ranks received from the office of Additional Director General of Police, Special Task Force, on the eve of felicitation function by the then Chief Minister stated for 27.10.04 and later postponed on 30.10.2004 and in view of up gradation of Grade I police constables / Head Constables ordered in G.O.Ms.No. 1247 Home (Pol-V) dated 28.10.2004, ahead of accelerated promotions ordered in the Government Orders 1st to 3rd read above and effected on 29.10.2004, Government accepted the request of the Director General of Police for upward revision of rank in respect of 58 Police Personnel and issued orders in the Government Order 5th read above.

3. Subsequently, it was brought to the notice of the Government that in number of cases accelerated promotions were accorded more than one rank inadvertently and in some cases the ranks of promotions were wrongly mentioned, in the Government orders 1st to 3rd read above. The Director General of Police has therefore requested the Government to issue necessary amendment / modification orders and forwarded a list of 65 such Police Personnel.

4. After careful examination of the above request of Director General of Police and to implement the spirit of announcement that one stage accelerated promotion has to be extended to the deserving Police Personnel, the Government accept the proposal of the Director General of Police and ordered that the ranks of 53 Police Personnel indicated in the Annexure - I to this order be limited to one stage of accelerated promotion which due / eligible due them. The details of their earlier rank and the original rank for which they are eligible clearly indicated in the said annexure against their names and this order comes into immediate effect.

5. The Government also issues the following amendments to the Government Orders first and second read above in order to rectify the ranks wrongly mentioned in the Government Orders."

6. In the Annexure to the said G.O., the mistaken grant of promotion to the ten petitioners was specifically noted, and it was clarified that, under the accelerated promotion scheme, they were entitled only to promotion to the rank of Naik. The petitioners, acting jointly, challenged G.O.Ms. No. 959, dated 10.11.2009, in W.P. No. 25067 of 2009. Pending the writ petition, this Court, by order dated 07.12.2009, granted an order of status quo. The writ petition was finally disposed of on 14.03.2016, wherein, in paragraph 6 of the order, the learned Judge made the following observation:-

"6. Admittedly, in the present case, at the time of promotion of Sub-Inspector of Police, the petitioners were holding the post of Naik, which is neither equivalent to Grade-I nor Head Constable. The promotion to the post of Sub-Inspector of Police to be given only from the stage of Head Constable. In G.O.Ms.No.1252 dated 29.10.2004, the Government have announced one stage accelerated promotion. But the petitioners were wrongly given double promotion. Therefore, it is not open to the petitioners to contend that the impugned order has been passed behind their back. Therefore, I find some force in the contentions made by the learned Special Government Pleader."

7. Notwithstanding the above finding, the learned Judge proceeded to pass the following directions, as recorded in paragraphs 9 and 10 of the said order:-

"9. Be that as it may. Admittedly, in the present case, the petitioners were given promotion to



the post of Sub-Inspector of Police from the post of Havildar in the year 2004. Subsequently, after noticing that they were given wrong promotion, that too, after a period of five years, the first respondent passed the impugned order, without issuing notice or whatsoever, for the reasons best known to them.

10. Therefore, without expressing any opinion on merits, only on the limited scope that no notice was served on the petitioners before passing the order of reversion, the impugned order is set aside and the matter is remitted back to the first respondent for fresh consideration. The first respondent is directed to consider the case of the petitioners, after issuing notice to all the parties concerned, and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order."

8. Pursuant to the aforesaid order, the first respondent-Government issued a show cause notice in Letter No. 41495/Pol- VIII/2016-3, dated 02.12.2016, calling upon the affected persons to show cause in the following terms:-

"3. In view of the above directions of the Hon'ble High Court of Madras, notice is hereby given as to why you should not be reverted as Naik. You may submit your representation in writing to the Government through proper channel within 15 days from the date of receipt of this notice, failing which the Government will pass suitable orders."

9. The petitioners submitted individual explanations in December 2016 in response to the show cause notice. Their principal contention was that they had already discharged duties in the post of Sub-Inspector for nearly twelve years, and therefore, any reversion at that stage would be unjustified. In his reply sent by the petitioner in W.P.(MD) No. 6530 of 2017, S. Ramesh, enclosed a copy of the opinion rendered by the Additional Government Pleader dated 15.09.2011, contending that the Government had thereby conceded his case. In his reply dated Nil, he had stated as follows at the end of his explanation:-

"Obviously the department have conceded that they have promoted us Naiks, Havildars in view of the existing vacancies and therefore it was in order. In this connection the legal opinion offered by the Additional Government Pleader dated 15.09.2011 is enclosed for ready reference."

10. As a serving Sub-Inspector of Police, the petitioner ought to have been aware that he had no right to annex any opinion purportedly rendered by the Additional Government Pleader, such opinions being privileged communications intended solely for the use of the Government in whose service he was employed. As a law enforcement officer, he was expected to be conversant with the provisions of the Indian Evidence Act and the Advocates Act in this regard.

11. Upon consideration of the replies to the show cause notice, the Government issued G.O.(Ms.) No. 276, Home (Pol.VIII) Department, dated 01.04.2017, rejecting the petitioners' request and directing that they be reverted from the post of Sub-Inspector of Police to the post of Naik with immediate effect. This order formed the subject matter of the first batch of ten writ petitions. The said writ petitions were admitted on 11.04.2017, and an order of interim stay was granted in the interlocutory applications. However, the respondents, by orders dated 25.04.2017, ordered reversion of the petitioners.

12. The petitioners once again approached this Court by instituting the second batch of ten writ petitions, which were admitted on 17.05.2017. Pending their disposal, an order of interim stay was granted. Pursuant to notice from this Court, the fourth respondent in the second batch of cases,



filed a counter affidavit in W.P.(MD) Nos. 9189 of 2017 to 9198 of 2017, praying for vacating the interim order.

13. The petitioners placed reliance on the order ***dated 07.06.2013 passed in W.P. Nos. 15653 to 15658 of 2009 (T.L. Ranganathan & Others v. Inspector General of Police (Armed Police), Chennai)***. In paragraph 18 of the said order, the Court made the following observation:-

"18. In the light of the above said decisions of the Apex Court, the impugned orders passed by the first and third respondents are not only contrary to Rule 9 of the Tamil Nadu Special Police Subordinate Service Rules, 1978, but also against the recommendation dated 7.12.1996 made by the Additional Director General of Police, Armed Police, Chennai and the proceedings dated 22.4.1998 passed by the Director General of Police, Chennai. Hence, the impugned orders dated 12.1.2001 and 30.06.2009 passed by the Inspector General of Police, Armed Police and another impugned order dated 20.07.2009 passed by the third respondent, Commandant, Tamil Nadu Special Police, TSP VIII Battalion, New Delhi are liable to be set aside. Accordingly, the same are set aside. In view of the above, the respondents are directed to consider the further promotional avenue of the petitioners to the posts of Sub Inspector of Police and the Inspector of Police taking into account the seniority of the petitioners in the post of Havildar with effect from the date of regularisation i.e. on 18.3.1994."

14. The same learned Judge, in the subsequent proceedings instituted by the present petitioners, viz., W.P. No. 25067 of 2009, decided on 14.03.2016, had, as recorded in paragraph 6 of the order (extracted supra), clearly found against the petitioners on the merits of their claim. Nevertheless, the only relief granted was on the limited ground that the orders of reversion had been passed without affording them notice. Consequently, the respondents were directed to redo the exercise after issuing an appropriate show cause notice.

15. The respondents have also placed on record a tabular statement setting out the particulars of the petitioners' promotions, their substantive posts, and the details of the various cases instituted by them. In addition, a copy of Section 44 of the Tamil Nadu Special Police Subordinate Service Rules has been produced to demonstrate the prescribed channel of promotion-namely, from Constable to Naik, and from Havildar to Sub-Inspector of Police.

16. In the counter affidavit filed by the fourth respondent in W.P. (MD) Nos. 9189 to 9198 of 2017, the issue in question has been addressed in paragraphs 10 to 13. Further, in paragraph 19, the authority of the Commandant to pass the consequential order has also been set out. The relevant portions may be usefully extracted below:-

"10. It is submitted that as per rule 7(b)(ii)(a) of Tamil Nadu Special police Sub-ordinate Service Rule 1978, the following criteria have been prescribed for the promotion of Naik and Havildar in Tamil Nadu Special Police:

- "i. Should be completed two years of service in the rank of Gr II PC for Naik promotion
- ii. Should be completed two years of service in the rank of Naik for Havildar promotion.
- iii. Completion of probation in the rank of Grade-II PC for Naik promotion
- iv. Completion of probation in the rank of Naik for Havildar promotion
- v. No charges pending (or) under contemplation against him.



i. Should be completed Small Arms Cadre Course in the rank of Naik for Havildar promotion.

11. It is submitted that the police personnel should pass in the promotional test (Efficiency test) in the rank of Naik fit for promotion as Havildar has been conducted every year by the Unit Promotion Board at Concerned Battalions.

12. It is submitted that the above said procedures were not followed in the petitioner's case. The petitioner had not passed the promotional test, period of service in both ranks and there is no scope for completion of probation in the rank of Naik and Havildar, since he was not promoted as regular Naik and regular Havildar. However, he was wrongly given accelerated promotion as Sub Inspector of Police in three stages instead of one stage.

13. It is further submitted that at the time of given accelerated promotion as Sub Inspector of Police, the petitioner was holding the post of temporary Havildar and his original rank was Grade-II Police Constable. This temporary promotion was issued purely on the basis of out of seniority. The petitioner had not passed the promotional test with the Small Arms Cadre Course as prescribed, hence he was not qualified at that time. According to the procedure, the regular promotions for the posts of Naik and Havildar were given to the Police personnel based on their seniority as well as the available vacancy.

19. The third respondent is the head of Armed Police wing and he is authority competent to issue any orders on the directions of the Government as well as the Director General of Police. Further, the most of the 1997 batch Gr II Police Constables are now serving as Havildar in Tamil Special Police Battalion. But the petitioner was appointed as Gr II Police Constable in the 2002 batch and he was getting three stage accelerated promotion wrongly as Sub Inspector of Police. The seniors of 1997 batch Gr II Police Constables were not promoted as Sub Inspector of Police till date."

17. The learned Additional Advocate General further placed reliance on the judgment of the Hon'ble Supreme Court in ***K. Madalaimuthu v. State of Tamil Nadu, reported in AIR 2006 SC 2662 : (2006) 6 SCC 558***, to contend that a temporary promotee cannot continue in a substantive post and is obliged to vacate the same upon the appointment of a regular incumbent. The following passage from paragraph 24 of the judgment was specifically pressed into service:-

"The law is well established that initial appointment to a post without recourse to the rules of recruitment, an appointment to a service as contemplated under Rule 2 (1) of the General Rules, notwithstanding the fact that such appointee is called upon to perform duties of a post borne on the cadre of such service. In fact, Rule 39 (c) of the General Rules indicate that a person temporary promoted in terms of Rule 39 (a) is required to be replaced as soon as possible by a member of the service who is entitled to the promotion under the rules. It stands to reason that a person who is appointed temporarily to discharge the functions in a particular post without recourse to the recruitment rules, cannot be said to be in service till such time his appointment is regularized. Therefore, it is only from the date on which his services are regularized that such appointee can claim seniority over those appointees subsequently. In the instant case the authorities, on the strength of the several Government Orders giving retrospective effect to the regularization of the promotees, have taken the date of initial appointment of such promotees as the starting point of their seniority"

18. The accelerated promotion scheme in question was not traceable to any statutory provision; it was an incentive granted by the Government as a matter of policy. The Government, having framed



the scheme, undoubtedly possesses the authority to issue clarifications regarding its scope and implementation. No person can claim to derive an undue advantage from an mistaken interpretation of the original order formulating the scheme. In substance, the petitioners cannot be permitted to perpetually enjoy a higher post to which they were neither eligible nor qualified at the relevant time. Upon issuance of a show cause notice and after affording the petitioners an opportunity of being heard, the Government passed final orders reverting them to the lower posts, strictly in accordance with law. Consequently, the plea of violation of the principles of natural justice is no longer available to them.

19. In the light of the foregoing discussion, no case has been made out to warrant interference in either batch of writ petitions. Accordingly, all the twenty writ petitions stand dismissed. Consequently, all connected W.M.Ps. are also dismissed. Any interim orders earlier granted shall stand vacated, and the petitioners shall not be entitled to place reliance upon such interim orders for any purpose whatsoever. There shall be no order as to costs.

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