

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND

THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 16166 OF 2020

Between:

SP Kasim Peera, S/o. Md Kasim, Age 57 years, Occ; ARSI, Hqrs Coy, 8th TSSP,
Kondapur, Ranga Reddy District, Telangana State.

.....PETITIONER

AND

1. The State of Telangana, Rep. by its Secretary, Home Department State Secretariat Building, Saifabad, Hyderabad.
2. The Director General of Police, Office of the DGP, Lakdikapul, Saifabad, Hyderabad.
3. Addl . Director General of Police, TSSP Bns, TS, Hyderabad.
4. The Commandant, TSSP, 8th Battalion, Kondapur, Hyderabad, Telangana State.
5. T.Sree Raghu, S/o. Not known aged 50 years, Occ.Service Reserve Inspector (RI) 8th Batallion, TSSP, R/o Kondapur, Hyderabad, Telangana State.
6. S.Srinivas Reddy, S/o Not known aged 47 years, Occ.Service, Reserve Inspector (RI) 1st Batallion, TSSP, Yousufguda, Hyderabad, Telangana State.
7. A.Srinivasa Rao, S/o Not known, aged about 57 years, Occ.Service, Reserve Inspector, 3rd Battalion, TSSP, Ibrahimpatnam, Ranga Reddy District, Telangana State.
8. A.V.N.Reddy, S/o Not known, aged about 57 years, Occ.Service, Reserve Inspector, 4th Battalion, R/o Mamnoor Lines, Warangal, Telangana State.
9. Baldev Twari, S/o Not known ,aged about 52 years, Occ.Service, Reserve Inspector, 5th Battalion, Chalavi, R/o Jayashankar Bhoopalpalli, Telangana State.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pass an order or a direction or a writ, more specifically a writ in the nature of writ of mandamus declaring the Rule 3 of the AP Police (Special Police Battalions) Sub-ordinate service rules issued nominating the Commandant as the 'Appointing Authority' for Police constables to Asst Reserve Sub Inspectors in proceedings G.O. Ms.No.69 Home (police-D) Dept, dt. 07/04/1997 as also the rule (1) (b) of the GOMS No. 85 (police-D) Dept, dt. 28/04/1997 drawing up promotions within the Battalion for police constables to Asst reserve sub-inspectors without drawing up State Level seniority as mandated not only by the presidential order but also by circular memo no. FSA /01/2014 dated 30/04/2014 as illegal and violative of the petitioners rights under article 14, 15 and 21 of the constitution of India, set aside the said Rule 3 of the AP Police (Special Police Battalions) Sub-ordinate service rules issued nominating the Commandant as the 'Appointing Authority' for Police constables to Asst reserve sub-inspectors and also rule (1) (b) of the GOMS No. 85 (police-D) Dept, dt. 28-04-1997 drawing up promotions within the Battalion for police constables to Asst reserve sub-inspectors as being in violation of the presidential order and as illegal and consequently refix the seniority of the petitioner vis a vis his juniors who have been promoted before him in spite of having been appointed after him based on rule (3) of G.O. Ms. No. 69 Home (police-D) Dept, dt. 07-04-1997 as also the rule (1) (b) of the GOMS No. 85 (police-D) Dept, dt. 28-04-1997 and direct placing him above all of his juniors promoted before him.

I.A.NO:1 OF 2020

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend all further proceedings pursuant to Memo No. 5696/Sec-III.A2/2019 dated 05-07-2019.

Counsel for the Petitioner : SRI A.SRINATH

Counsel for the Respondent Nos.1 to 4 : SRI B.KRISHNA, GP FOR HOME

Counsel for the Respondent Nos.5 to 9 : --

The Court made the following ORDER

VERDICTUM.IN

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH

AND

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.16166 OF 2020

DATE: 17.02.2026

Between:

S.P.Kasim Peera

....Petitioner

AND

The State of Telangana and 8 others

....Respondents

ORDER

Heard Sri A.Srinath, learned counsel for the petitioner; and Sri B.Krishna, learned Government Pleader for Home appearing for respondent Nos.1 to 4 and perused the record.

2. This writ petition is filed under Article 226 of the Constitution of India, with the following prayer:-

.....to pass an order or a direction or a writ, more specifically a writ in the nature of writ of mandamus declaring the Rule 3 of the AP Police (Special Police Battalions) Sub-ordinate service rules issued vide nominating the Commandant as the 'Appointing Authority" for Police constables to Asst Reserve Sub Inspectors in proceedings G.O. Ms. No. 69 Home (police-D) Dept, dt. 07-04-1997 as also the rule (1) (b) of the GOMS No. 85 (police-D) Dept, dt. 28-04-1997 drawing up promotions within the Battalion for police constables to Asst reserve sub-inspectors without drawing up State Level seniority as mandated not only by the presidential order but also by circular memo no. FSA

/01/2014 dated 30-04-2014 as illegal and violative of the petitioner's rights under article 14, 15 and 21 of the constitution of India, set aside Rule 3 of the AP Police (Special Police Battalions) Sub-ordinate service rules issued nominating the Commandant as the 'Appointing Authority' for Police constables to Asst Reserve Sub Inspectors and also rule (1) (b) of the GOMS No. 85 (police-D) Dept, dt. 28-04-1997 drawing up promotions within the Battalion for police constables to Asst reserve sub-inspectors as being in violation of the presidential order and as illegal and consequently reverse the seniority of the petitioner vis a vis his juniors who have been promoted before him in spite of having been appointed after him based on rule (3) of G.O. Ms. No. 69 Home (police-D) Dept, dt. 07-04-1997 as also the rule (1) (b) of the GOMS No. 85 (police-D) Dept, dt. 28-04-1997 and direct placing him above all of his juniors promoted before him, and pass such other further order or orders that are deemed fit and proper in the circumstances of the case and in the interest of justice.

3. This Writ Petition is filed challenging the constitutional and legal validity of Rule 3 of the Andhra Pradesh Police (Special Police Battalions) Subordinate Service Rules (for short 'Special Police Service Rules'), notified *vide* G.O.Ms.No.69, Home (Police-D) Department, dated 07.04.1997, and Rule 1(b) of G.O.Ms.No.85, Home (Police-D) Department, dated 28.04.1997.

Factual Matrix (in brief)

4. The petitioner is a member of the Andhra Pradesh Police establishment and is presently serving as an Assistant Reserve Sub-Inspector (ARSI) in the 8th Battalion of the Telangana State Special Police (TSSP). The service conditions of personnel serving in the Special Police Battalions are governed by statutory rules issued by the State Government from time to time.

5. By G.O.Ms.No.69, Home (Police-D) Department, dated 07.04.1997, the Special Police Service Rules were notified. Rule 3 thereof, *inter alia*, provides for the method and manner of appointment and promotion to various posts in the Special Police Battalions. Subsequently, G.O.Ms.No.85, Home (Police-D) Department, dated 28.04.1997, was issued, wherein Rule 1(b) made certain provisions applicable to promotions within the battalion structure.

6. The grievance of the petitioner arises in the context of promotion from the cadre of Police Constable to that of ARSI. According to the petitioner, promotions to the post of ARSI have been effected by reckoning battalion-wise seniority, in terms of the aforesaid Rules and Government Orders. The petitioner claims to be adversely affected by the application of battalion-level seniority, as opposed to State-level seniority, for the purpose of promotion.

7. It is the petitioner's case that the posts in question are non-ministerial posts in the Special Police Battalions and that under the Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 (for short 'the Presidential Order'), such posts are required to be treated as State-level cadres. The petitioner asserts that the impugned Rules and Government Orders, insofar as they confine promotions to battalion-wise seniority, are inconsistent with the Presidential Order.

8. Aggrieved thereby and contending that the impugned provisions have resulted in denial of consideration for promotion in accordance with State-level seniority, the petitioner has approached this Court under Article 226 of the Constitution of India, seeking appropriate reliefs.

Contentions of the petitioner

9. Learned counsel for the petitioner has contended:
- i. That the Presidential Order, read with G.O.Ms.No.675, General Administration (SPF.A) Department, dated 20.10.1975, expressly excludes all non-ministerial posts in the Special Police Battalions from the organisation of local cadres, thereby treating them as State cadre posts. This position is further reinforced by G.O.Ms.No.795, Home (SPF) Department, dated 30.06.1976, which organised local cadre posts in the Police Department but consciously excluded Battalion posts, reaffirming their State-level character.
 - ii. That the Service Rules issued under G.O.Ms.No.69, Home (Police-D) Department, dated 07.04.1997, and amended by G.O.Ms.No.85, Home (Police-D) Department, dated 28.04.1997, by designating the Battalion Commandant as the appointing authority and by confining seniority and promotion from Police Constable to ARSI to the battalion level, are in direct conflict with the Presidential Order. By fragmenting a cadre recruited through a State-wide process,

the impugned Rules deny State-wide seniority and promotional consideration, rendering them *ultra vires* the Presidential Order and violative of Articles 14, 16 and 21 of the Constitution of India.

- iii. That the respondents themselves have acknowledged this illegality. In the official communication dated 27.11.2017 addressed by the Director General of Police, Telangana (DGP) to the Principal Secretary, it is expressly admitted that G.O.Ms.No.69, issued after the Presidential Order, confined appointments from Police Constable to ARSI to specific Battalions, contrary to the Presidential Order, and that G.O.Ms.No.85 further restricted seniority and promotions to the battalion level by amending Order No.37 of the A.P. Special Police Manual.
- iv. That a Division Bench of this Court, in W.P.No.14255 of 2016, while granting interim relief, has already observed that in the absence of a duly prepared State-level seniority list, further steps towards allocation and promotion would lead to serious anomalies and cannot be sustained. The said principle, it is submitted, squarely applies to the present case.
- v. That the petitioner submitted a detailed representation dated 09.03.2020 to the competent authorities, highlighting distortion in seniority and the resultant prejudice caused by

the promotion of his juniors, supported by comparative particulars. Despite the same, no action was taken, leaving the petitioner with no alternative but to invoke the extraordinary jurisdiction of this Court.

Contentions of the respondents

10. Learned Government Pleader for the respondents while justifying the impugned action by placing reliance on the Service Rules issued under G.O.Ms.No.69, Home (Police-D) Department, dated 07.04.1997, as amended by G.O.Ms.No.85, Home (Police-D) Department, dated 28.04.1997 has contended as follows:

- i. That promotions and seniority have been regulated in accordance with the said rules, which have been consistently followed for several decades.
- ii. That the existing system has evolved as a matter of long-standing administrative practice and that promotions effected on battalion-wise seniority were undertaken in good faith. While referring to the communication of the Director General of Police dated 27.11.2017, the respondents do not dispute the contents thereof but seek to explain that the continuation of the existing framework was necessitated in the absence of revised Service Rules.
- iii. That subsequent to the bifurcation of the State of Andhra Pradesh, the Government of Telangana has initiated steps to restructure the service conditions of Special Police Battalion

personnel in conformity with the Presidential Order, applicable post-bifurcation. It is stated that the process of framing new Service Rules based on the Presidential Order, 2018, is underway and that, as an initial step, all groups have been merged into a single category under G.O.Ms.No.74, Finance (HRM.VI) Department, dated 07.09.2019, acknowledging the need for maintenance of a single common seniority list.

- iv. That the respondents admit that maintenance of separate seniority lists for General Duty personnel and specialist trades resulted in disparities among employees of the same batch. It is stated that corrective measures are being undertaken, and in this regard, reference is made to Memo No.5696/Ser.II/A2/2019, dated 05.07.2019, initiating the process of assigning notional seniority to certain personnel to remedy earlier omissions and anomalies.
- v. That acceptance of the petitioner's plea would require revision of seniority lists dating back to 1975 and would unsettle long-settled seniority positions, leading to serious administrative complications. It is therefore contended that the claim is belated and that the comprehensive restructuring exercise presently undertaken by the State ought to be allowed to operate prospectively, without judicial interference.

11. We have taken note of the respective contentions urged.

Analysis and finding

12. The central issue of the case is whether the statutory service rules framed under G.O.Ms.No.69 and G.O.Ms.No.85 of 1997, which confine seniority and promotion in the Special Police Battalions to the battalion level, can legally prevail over the Presidential Order, 1975, issued under Article 371-D of the Constitution, which mandates State-level cadre and State-wide seniority for non-ministerial posts in the Special Police Battalions.

A. Validity of the Impugned Government Orders and Effect of Government Admissions

13. It is pertinent to note that the Presidential Order, 1975, issued under Article 371-D of the Constitution, has statutory force and overriding effect. G.S.R. No.529(E), dated 18.10.1975, as notified through G.O.Ms.No.675, General Administration (SPF.A) Department, expressly exempts all non-ministerial posts in the Special Police Battalions from the organisation of local cadres. The legal consequence of such exemption is unambiguous. Thus, the said posts constitute State cadre posts, to which State-wide seniority must apply.

14. This statutory position is further reinforced by G.O.Ms.No.795, Home (SPF) Department, dated 30.06.1976, whereby the Government organised local cadre posts in the Police Department but consciously excluded posts in the Special Police

Battalions. The contemporaneous executive understanding thus accords with the constitutional mandate embodied in the Presidential Order.

15. Tested against this framework, the provisions of G.O.Ms.No.69, Home (Police-D) Department, dated 07.04.1997, and G.O.Ms.No.85, Home (Police-D) Department, dated 28.04.1997, insofar as they confine appointing authority, seniority and promotions from Police Constable to Assistant Reserve Sub-Inspector to the battalion level, are plainly inconsistent with the Presidential Order. In this regard, the subordinate legislation cannot dilute or override a constitutional order issued under Article 371-D. Significantly, this inconsistency is not merely asserted by the petitioner but stands admitted by the respondents themselves.

16. It is to be noted that in the communication dated 27.11.2017 addressed by the Director General of Police to the Principal Secretary, it is categorically acknowledged that the Service Rules framed under G.O.Ms.No.69 and the amendment under G.O.Ms.No.85, by fixing Battalion Commandants as appointing authorities and restricting seniority to individual battalions, operate "*against the Presidential Order.*" This admission has not been specifically denied or rebutted in the counter affidavit. The said Communication dated 27.11.2017 is extracted hereunder for ready reference:

After formation of Telangana State, the G.O.Ms.No. 69 Home (police-D) dt. 7-4-1997 and subsequent amendments were adopted by the State Govt of. Telangana vide G.O.Ms.No. 51 Home (Legal) Department dt. 6-5-2016: As stated above, G.O.Ms.No. 69 and its subsequent amendments are against the Presidential Order.

17. It is also to be noted that when the executive authority entrusted with the implementation of the Service Rules concedes their incompatibility with the governing constitutional instrument, this Court cannot sustain their validity. The impugned provisions of G.O.Ms.No.69 and G.O.Ms.No.85 of 1997, to the extent they mandate battalion-wise seniority and promotion in respect of State cadre posts, are therefore in congruous with the Presidential Order and lack legal efficacy. However, we exercise restraint and refrain from pronouncing upon the *vires* of the said provisions having taken due cognizance of the State's undertaking to initiate remedial measures, and in order to prevent large-scale and wide-spread administrative disruption or upheaval.

18. It is pertinent to note that the issuance of G.O.Ms.No.74, Finance (HRM.VI) Department, dated 07.09.2019, merging all groups into a single category, and the admitted initiation of steps to frame new Service Rules in conformity with the Presidential Order, 2018, unmistakably demonstrate governmental recognition that the existing regime is flawed and requires realignment with the constitutional scheme.

B. Plea of Laches and Nature of the Challenge

19. In the present case, the respondents have sought to non-suit the petitioner on the ground of delay and acquiescence. This contention cannot be accepted in the facts of the present case. The petitioner is not assailing an isolated promotion or a singular administrative act; rather, the challenge is directed against the very foundation of the seniority and promotional framework, which the respondents themselves concede to be contrary to law.

20. It is to be noted that the Doctrine of Laches has limited application. Seniority system founded upon rules inconsistent with the Presidential Order gives rise to a continuing wrong, resulting in recurring prejudice. Each denial of promotion or consideration on the basis of an illegal seniority regime furnishes a fresh cause of action.

21. Moreover, the cause of action acquired renewed immediacy after the bifurcation of the State, more particularly in view of the observations of the Division Bench of this Court in W.P.MP.No.17770 of 2016 in W.P.No.14255 of 2016 highlighting the anomalies arising from the absence of State-level seniority, and the explicit admission made by the DGP in 2017. Though the said W.P.No.14255 of 2016 was dismissed as infructuous following the retirement of the petitioner therein, the relevant portion of the observations of the Division Bench made in the said case are extracted hereunder:

In our prima facie opinion, in view of Guideline No. 18 of Circular Memo No.FSA/01/2014, dated 30-09-2014, without preparation of seniority list as on 01-06-2014, final allocation of employees shall not be made. It is not the case of the respondents that if each Battalion is taken as an independent unit, the employees cannot be subjected to allocation between the two States. In a converse case, unless the inter se seniority of all the Battalions situated in both the States is finalized, they cannot be allocated among the respective states, for, there are likely to be serious anomalies arising such as a senior working in one Battalion of one State becoming junior to a person working in another Battalion in another State. Unless these anomalies are addressed, the respondents cannot embark upon allocation of employees. The Tribunal has overlooked these vital aspects and dismissed the OA at the admission stage. Hence, the respondents concerned are restrained from disturbing the petitioner from the 8th Battalion in pursuance of the provisional allocation, pending further orders.

Therefore, the petitioner's representation dated 09.03.2020 and the present writ petition must therefore be viewed in the context of these supervening developments and cannot be termed belated.

C. Scope of Judicial Intervention and Balancing of Equities

22. It is pertinent to note that the respondents have expressed a legitimate concern that striking down the impugned rules with full retrospective effect may necessitate revision of seniority lists dating back several decades, leading to large-scale administrative disruption and unsettling of settled positions of numerous employees who are not before this Court. In the considered opinion of this Court, such concerns cannot be lightly brushed aside.

23. It is also to be noted that the administrative convenience cannot operate as a shield to perpetuate an illegality that infringes

the constitutional and statutory rights of employees. The jurisdiction of this Court under Article 226 obliges it to declare the correct legal position, while fashioning relief in a manner that balances legality with practical justice.

24. In the considered view of this Court, the appropriate course lies in a calibrated approach by declaring the governing legal principle emanating from the Presidential Order; (i) directing the State to complete the process of restructuring in conformity with law; and (ii) ensuring that the petitioner's individual grievance, supported by comparative data and pending consideration, is addressed within the framework of the corrected regime.

25. The respondents' own assertion that the restructuring process has already been initiated is a relevant and positive factor. In such circumstances, the Judicial intervention must operate to ensure expeditious compliance with constitutional mandates, rather than to supplant administrative functions.

Conclusion

26. For the foregoing reasons and having regard to the categorical admissions made by the respondents regarding the incompatibility of the 1997 Rules with the Presidential Order and the steps initiated for restructuring, the Writ Petition is disposed of with the following directions:

- i. It is declared that the posts of Police Constable, Head Constable and Assistant Reserve Sub-Inspector (ARSI) in the

Special Police Battalions are State Cadre posts governed by the Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975. Consequently, Rule 3 of G.O.Ms.No.69, Home (Police-D) Department, dated 07.04.1997, and Rule 1(b) of G.O.Ms.No.85, Home (Police-D) Department, dated 28.04.1997, insofar as they mandate battalion-wise seniority and promotions up to the rank of ARSI, are held to be inconsistent with the Presidential Order and unenforceable to that extent.

- ii. Respondent Nos.1 to 3 shall expeditiously complete the process of framing and notifying fresh Service Rules for the Telangana State Special Police Battalions, ensuring maintenance of State-wide seniority from the rank of Police Constable upwards, in strict conformity with the Presidential Order, 1975 and the Telangana Public Employment Order, 2018, within a period of six (6) months from the date of receipt of a copy of this order.
- iii. The petitioner's representation dated 09.03.2020 shall be considered afresh by the Principal Secretary, Home Department, in the light of the declaration of law made herein, the admissions contained in the counter affidavit, the communication of the Director General of Police dated 27.11.2017, and the comparative seniority material placed

on record. A reasoned order shall be passed within a period of four (4) months and if the petitioner is found entitled, he shall be granted all consequential benefits in accordance with law.

- iv. Pending the formulation and notification of fresh Service Rules, the respondents shall refrain from effecting promotions based solely on battalion-wise seniority under the impugned 1997 Rules, where such promotions are likely to perpetuate the illegality declared herein.

Consequently, miscellaneous petitions pending if any shall stand closed. No order as to costs.

**Sd/-P.C SULEKHA DEVI
ASSISTANT REGISTRAR**

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SECTION OFFICER

To

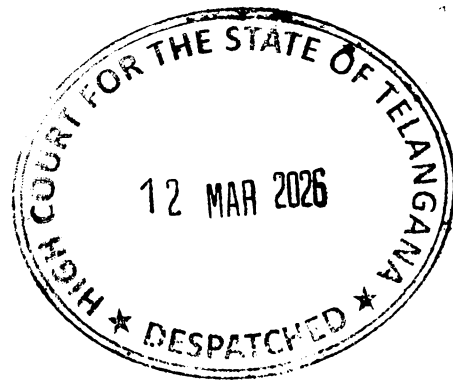
1. The Secretary, Home Department State Secretariat Building, Saifabad, State of Telangana at Hyderabad.
2. The Director General of Police, Office of the DGP, Lakdikapul, Saifabad, Hyderabad.
3. The Addl . Director General of Police, TSSP Bns, TS, Hyderabad.
4. The Commandant, TSSP, 8th Battalion, Kondapur, Hyderabad, Telangana State.
5. Two CCs to GP FOR HOME, High Court for the State of Telangana at Hyderabad. [OUT]
6. One CC to SRI A.SRINATH, Advocate [OPUC]
7. Two CD Copies

**SA
PMK**

AS

HIGH COURT

DATED:17/02/2026



ORDER

WP.No.16166 of 2020

**DISPOSING OF THE W.P
WITHOUT COSTS.**

(10)
MT
12/3/26