



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.19958 to 19963 of 2021

WEB COPY

A.S.Ramu	... Petitioner in WP(MD). 19958/ 2021
Veluchamy.S	... Petitioner in WP(MD). 19959/ 2021
Gohilah.K	... Petitioner in WP(MD). 19960/ 2021
Valarmathi.N	... Petitioner in WP(MD). 19961/ 2021
Chellasamy.P	... Petitioner in WP(MD). 19962/ 2021
Ramanathan.S	... Petitioner in WP(MD). 19963/ 2021

versus

1.The Government of Tamil Nadu,
Rep. by its Secretary to Home Department,
Fort St. George, Chennai-600 009.
2.The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai-600 004.
3.The Superintendent of Police,
Madurai, Madurai District.

... Respondents in WP(MD). 19958/ 2021

1. The Government of Tamilnadu
Rep. by its Secretary to Home Department,
Fort St.George, Chennai - 600 009.
2. The Director General of Police,
Kamarajar Salai, Mylapore, Chennai - 600 004.
3. The Deputy Inspector General of Police,
Ramanathapuram Range, Ramanad District

... Respondents in WP(MD). 19959/ 2021

1. The Government of Tamilnadu
Rep. by its Secretary to Home Department,
Fort St.George, Chennai - 600 009.
2. The Director General of Police,
Kamarajar Salai, Mylapore, Chennai - 600 004.
3. The Commissioner of Police
Madurai, Madurai District

... Respondents in WP(MD). 19960/ 2021



1. The Government of Tamilnadu
Rep. by its Secretary to Home Department,
Fort St.George, Chennai - 600 009.
2. The Director General of Police, Kamarajar Salai, Mylapore,
Chennai - 600 004.
3. The Commissioner of Police
Trichy City, Trichy.

... Respondents in WP(MD). 19961/ 2021

1. The Government of Tamilnadu
Rep. by its Secretary to Home Department,
Fort St.George, Chennai - 600 009.
2. The Director General of Police, Kamarajar Salai, Mylapore,
Chennai - 600 004.
3. The Commissioner of Police Madurai City.

... Respondents in WP(MD). 19962/ 2021

1. The Government of Tamilnadu
Rep. by its Secretary to Home Department,
Fort St.George, Chennai - 600 009.
2. The Director General of Police, Law and Order,
Kamarajar Salai, Mylapore, Chennai - 600 004.
3. The Additional Director General of Police, Crime Branch CID
Electronic Complex, Sidco,
Industrial Estate, Guindy,
Chennai - 600 032
4. The Deputy Inspector General Of Police, Crime Branch CID
Electronic Complex, Sidco,
Industrial Estate, Guindy,
Chennai - 600 032

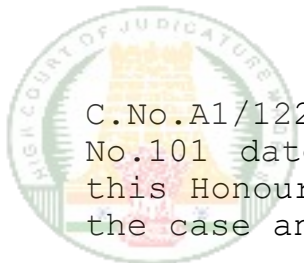
... Respondents in WP(MD). 19963/ 2021

Prayer in WP(MD). 19958/ 2021: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, directing the respondents 2 & 3 to revise and regularize the service seniority and to give further promotion as notionally with monetary benefits to the petitioner on the basis of petitioner's representation dated 13.08.2021 as per the orders which were complied the Identical Matters in proceedings C.No.A1/12265/2013, R.O.O.No.141/2015, dated 27.03.2015 and G.O.Ms.No.101, dated 13.02.20219.

Prayer in WP(MD). 19959/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the 2nd and 3rd Respondents to revise and regularize the service seniority and to give further promotion as notionally with monetary benefits to the petitioner on the basis of petitioners representation dated 13-08-2021 as per the orders which

<https://www.ecourts.gov.in/> ~~seems to be~~ ~~complied~~ ~~the~~ ~~Identical~~ ~~matters~~ ~~in~~ ~~proceedings~~



C.No.A1/12265/2013, R.O.O.No.141/2015 dated 27-03-2015 and G.O.(Ms). No.101 dated 13-02-2019 and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD). 19960/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the 2nd and 3rd Respondents to revise and regularize the service seniority and to give further promotion as notionally with monetary benefits to the petitioner on the basis of petitioners representation dated 14-09-2021 as per the orders which were complied the Identical matters in G.O.(Ms).No.101 dated 13-02-2019 and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD). 19961/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the 2nd and 3rd Respondents to revise and regularize the service seniority and to give further promotion as notionally with monetary benefits to the petitioner on the basis of petitioners representation dated 19-03-2021 as per the orders which were complied the Identical matters G.O.(Ms).No.101 dated 13-02-2019 and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD). 19962/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the 2nd and 3rd Respondents to revise and regularize the service seniority and to give further promotion as notionally with monetary benefits to the petitioner on the basis of petitioners representation dated 16-08-2021 as per the orders which were complied the Identical matters in proceedings C.No.A1/12265/2013, R.O.O.No.141/2015 dated 27-03-2015 and G.O.(Ms). No.101 dated 13-02-2019 and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD). 19963/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the 2nd and 3rd Respondents to revise and regularize the service seniority and to give further promotion as notionally with monetary benefits to the petitioner on the basis of petitioners representation dated 04-08-2021 as per the orders which were complied the Identical matters in proceedings C.No.A1/12265/2013, R.O.O.No.141/2015 dated 27-03-2015 and G.O.(Ms).



COMMON ORDER

The issues involved in these Writ Petitions are one and the same and therefore, these Writ Petitions are heard together and disposed of by way of this common order.

2. The writ petitioners, who retired from service in the year 2004, 2005, 2007, 2008, 2011 and 2012 respectively, have filed these writ petitions for a Mandamus directing the second and third respondents to revise and regularise the service seniority and to grant notional promotion with monetary benefits by considering the petitioners representation and in the light of the orders of the Department in C.No.A1/12265/2013, R.O.O.No.141/2015 dated 27.03.2015 and G.O.(Ms)No.101, Home (Police-2) Department, dated 13.02.2019.

3. According to the learned counsel for the petitioners, some Women Head Constables Mrs.Immaculate Devotta, Mrs. Malliga and Mrs.Meenambal, who were juniors in appointment to the petitioners, were promoted, after retirement, notionally as per G.O(Ms)No.101, Home (Police-2) Department, dated 13.02.2019 and certain benefits have also been extended to them.

4. The learned counsel for the petitioners has also submitted that recently the Department has implemented the Order of the High Court for the identical matter in W.A.No.361, 364 and 367/2012 against W.P.No.2989, 2888 and 2864/2011 and that implementation proceedings passed by the second respondent in D.No.326/2015, C.No.A2/58801/2014 dated 26.03.2015 and the proceedings of the Deputy Inspector General of Police, Tirunelveli Range in C.No.A1/12265/2013, R.O.O.No.141/2015, dated 27.03.2015 to the persons, namely B.Thangapandian (SSI 2207), S.Michel Antony (SSI 2260) and R.Paul Durai (SSI 359). Now, the petitioners herein claims that they are also similarly placed that of those persons, who have got the benefit as per the orders of this Court in W.A.Nos.361, 364 and 367 of 2012. The petitioners claim notional promotion after 13 years of service based on some proceedings of the Department granting the relief to others by interpreting the scheme of upgradation.

5. Considering the problem of stagnation of police personnel, without promotion, the Government had introduced a scheme of up-gradation in a phased manner vide G.O.Ms.No.1681, Home Department (Police, etc) D.O.No.1432/1992, dated 12.10.1992 and as per which, up-gradations

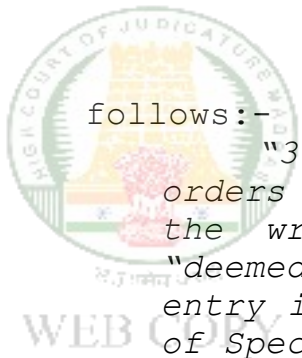
were made as follows:-

Year	No. of Gr.II Posts to be upgraded as Gr.I Posts	No. of Gr.I Posts to be upgraded as HC Posts
1992-93	9000	500
1993-94	4000	700
1994-95	4000	700
1995-96	4000	800
Total	21,000	2,700

6. The upgradation was ordered to be done once a year in October. It was further ordered that promotion to these upgraded posts should be based on the prescribed tests and that the direct recruitment of Gr.I PCs be filled up through promotions only. This GO does not specify automatic upgradation at the end of specified number of years of service.

7. Thereafter, time bound promotion has been provided vide G.O.Ms.No.844 Home (Pol.V) Department, dated 3.6.1997 that Grade-II Police Constables, who had completed 10 years of service, are promoted as Grade-I Police Constables and those who have completed total 15 years of service as Grade-I Police Constables are promoted as Head Constable. Vide G.O.Ms.No.937, Home (Pol.III) Department dated 21.07.1998, the scheme of upgradation has been extended upto Special Sub-Inspector of Police on condition that the Head Constables, who had completed 10 years of service, with a total service of 25 years, are upgraded as SSI of Police subject to the conditions that they should not have any punishment in the preceding 5 years and should not be facing any charge under Rule 3(b). This power of upgradation was also delegated to the Superintendent of Police and Commissioner of Police vide G.O.Ms.No.15, Home (Pol.V) Department, dated 07.01.2010 to upgrade Grade-II Police Constables as Grade-I Police Constables on completion of 10 years of service from the first of the month succeeding the date of completion of ten years and to upgrade Grade-I Police Constables as Head Constables on completion of 5 years of service in the rank of Grade-I Police Constable from the 1st of the month succeeding the date of completion of 5 years.

8. However, certain false representations have been made before this Court that on completion of 25 years of service, a police constable is entitled to be promoted as SSI and based on that, this Court has also passed some orders, which were referred by the petitioner in his representation as well as in this writ petition. Such orders, which were passed on wrong representations, were challenged before this Court and Review Applications in Rev.Aplc.No.72 of 2015 etc., batch came to be filed and this Court by order dated 22.03.2017 has rectified the mistake and held as



follows:-

"30. ...We have already held that since the Government orders in question cannot have retrospective effect and that the writ petitioners cannot claim that the benefit of "deemed promotion" by reckoning the date of their initial entry into police service to claim the promotion to the post of Special Sub Inspector of Police much earlier.

31. In the facts and circumstances of the present case in the light of the Government orders operating the field and materials placed before us by the learned Special Government Pleader, we are of the categorical view that the writ petitioners cannot claim deemed promotion to the post of Special Sub Inspector of Police and the attendant service and monetary benefits. We, therefore, left with no other option but to respectfully disagree with the decision rendered by the earlier Division Bench of this Court in similar batch of writ petitions.

32. We wish to point out that we passed the common order dated 23.04.2015 in W.A(MD)No.348 to 357 of 2015 batch of cases on the submission made by the learned counsel that the issue involved is covered by the earlier Division Bench decision dated 17.06.2013 made in W.A(MD)No.1506 of 2011. The niceties of the legal issues and the real import and purport of the Government Orders were omitted to be brought to our notice. We reiterate that it was only on the ground and in this manner that several police Constables, most of them retired from service long back, reaped monetary benefits that was not legitimately due to them under the Government Orders concerned. In such circumstances, we cannot blindfold ourselves by the earlier Division Bench decision to allow the claim of the present writ petitioners. We are thoroughly convinced in the facts and circumstances of the case that the Government has made out sustainable grounds for reviewing our earlier common order dated 23.04.2015 in W.A(MD)No.348 to 357 of 2015.

In the result, while set aside the common order, dated 28.11.2013 passed by the learned Single Judge in W.P(MD) No.15078 of 2010 etc., batch of writ petitions, we allow all the Review Applications and the writ appeals filed by the Government. There will be no order as to costs. Consequently connected miscellaneous petitions are also closed."

9. In such view of the matter and in view of the settled position of law, this Court is not inclined to entertain this petition and the same is liable to be dismissed in the admission



stage itself.

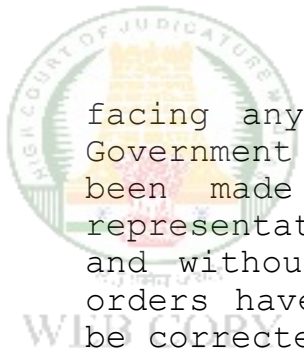
10. Admittedly, a mistake has crept-in while passing the orders in W.A.(MD)No.1103 of 2012, etc., batch, dated 17.06.2021, which paved the way for the petitioners to file these writ petition. This mistake was accepted and rectified by the Division Bench of this Court, in the aforesaid review application. While allowing the review application, the Division Bench has quoted the observation of another Division Bench of this Court as follows:-

"35. As a matter of fact, the greatness of the Court lies only in its courage and ability to correct its mistakes. Justice is more precious than discipline. This was the principle that the Supreme Court highlighted in A.R.Antulay v. R.S.Nayak, AIR 1988 SC 1531. It was observed that in the said decision that in rectifying an error, no personal inhibitions should debar the Court because no person should suffer due to the mistake of the Court. Therefore, this Court should not feel shackled either by the rules of procedure or by the principles of propriety, when it is so glaring that a gross injustice has been done to the State (1) by Writ Petitions getting allowed at the stage of admission, and (2) by getting those Orders implemented under threat of contempt. This is especially so when the earliest decision that was followed in all other cases, did not decide the Scale of Pay to be granted for Selection and Special Grades....."

11. But, the Court alone cannot be held responsible for the mistake. Courts are taking a decision based on the submissions / facts / materials put forth before it by the respective Counsels. Therefore, the Counsel, who appeared in those writ petitions, including the Government Counsels, are also liable to take the responsibility. As an officer of the Court, every Advocate, irrespective of their designation, whether private Counsel or Government Counsel, is expected to place the correct facts before the Court.

12. In the case on hand, an attempt was made to get the relief by referring the orders passed in W.A.(MD)No.1506 of 2011, etc., batch, dated 17.06.2013. But the fact remains that the orders which were passed based on W.A.(MD)No.1506 of 2011 were reviewed and also got set aside in Rev.Aplw.Nos.70 of 2015, etc., batch, dated 22.03.2017.

13. Vide G.O.Ms.No.937, Home (Pol.III) Department, dated 21.07.1998, the scheme of upgradation has been extended upto Special Sub-Inspector of Police on condition that the Head Constables, who had completed 10 years of service and total service of 25 years are upgraded as SSI of Police subject to the conditions that they should not have any punishment in the preceding 5 years and should not be



facing any charge under Rule 3(b) of criminal case. Though, the Government Order is in plain language, false representations have been made before the High Court and due to lack of proper representation on the side of the Government, orders were obtained and without obtaining any opinion and without filing any appeal, orders have been complied with in a hurried manner, which needs to be corrected by the Department.

14. In the result, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Secretary to Home Department,
Fort St. George,
Chennai-600 009.
- 2.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai-600 004.
- 3.The Superintendent of Police,
Madurai,
Madurai District.
- 4.The Deputy Inspector General of Police,
Ramanathapuram Range, Ramanathapuram District.
- 5.The Commissioner of Police,
Madurai City, Madurai.
- 6.The Commissioner of Police,
Trichy City, Trichy.



7. The Additional Director General of Police, Crime Branch CID
Electronic Complex, Sidco,
Industrial Estate, Guindy,
Chennai - 600 032

WEB COPY

8. The Deputy Inspector General Of Police, Crime Branch CID
Electronic Complex, Sidco,
Industrial Estate, Guindy,
Chennai - 600 032

+1 CC to M/s.A.RAJARAM, Advocate (SR-33702[F] dated 08/11/2021)

+1 CC to M/s.SPL.GP (SR-33934[F] dated 10/11/2021)

W.P(MD)Nos.19958 to 19963 of 2021
08.11.2021

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