



WP No.21253 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-11-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.21253 of 2019

P.Kesavan

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Petitioner

VS.

1.The Secretary to Government,
Home (Police V) Department,
Fort St. George,
Chennai-600 009.

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

3.The Joint Commissioner of Police,
West Zone,
Ambattur Industrial Estate,
Chennai-600 003.

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Respondents

Writ Petition is filed under Article 226 of the Constitution of India,



WP No.21253 of 2019

praying for the issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 14.01.2019 by taking into account of his entire service for up-gradation of Special Sub-Inspector of Police notionally after completion of 25 years of service in the light of the G.O.Ms.No.13, Home (Police V) Department, dated 06.01.2010 and G.O.Ms.No.15, Home (Police V) Department, dated 07.01.2010 and grant him all service and monetary benefits.

For Petitioner : Mr.M.Vignesh Raj for
Mr.M.Muthappan.

For Respondents : Mr.S.Rajesh,
Government Advocate.

O R D E R

The relief sought for in the present writ petition is to direct the the respondents to consider the petitioner's representation dated 14.01.2019 by taking into account of his entire service for up-gradation of Special Sub-Inspector of Police notionally after completion of 25 years of service in the light of the G.O.Ms.No.13, Home (Police V) Department, dated 06.01.2010 and G.O.Ms.No.15, Home (Police V) Department, dated 07.01.2010 and grant him all service and monetary benefits.



WP No.21253 of 2019

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2. The petitioner was appointed as Grade-II Police Constable on 03.09.1980 and he was upgraded as Grade-I Police Constable in the year 1994 and further upgraded as Head Constable during the year 1999. He was promoted to the post of Special Sub-Inspector of Police in the year 2010 and thereafter, retired from service on 30.04.2016 on attaining the age of superannuation.

3. The grievance of the petitioner was that he was not granted promotion on completion 10 years and 5 years respectively to the post of Grade-I Police Constable and Head Constable. The issue in this regard and the rights of the employees for such upgradations were considered and decided by the Full Bench of this Court in batch of cases in W.A.No.3748 of 2019 etc., and the judgment was delivered on 04.02.2022. The relevant portion of the judgment of the Full Bench reads as under:-

“42. In view of the above discussion, we proceed to answer the second question that has been referred to this Full Bench hereunder;



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WP No.21253 of 2019

?We hold that the Division Bench in V.Samy case did not lay down the law correctly and we uphold the law laid down in V. Ramachandran case to the extent that there is no deemed upgradation or deemed promotion contemplated in the relevant Government orders and the benefit of upgradation/promotion to the next level can be granted/claimed only on completion of the qualifying service in each level/rank as prescribed in the relevant Government Orders. At the risk of repetition, insofar as understanding the expression ? retrospective operation? is concerned, we hold that The Government Orders operate prospectively but it imposes/grants new results in respect of a past event. In other words, the Government Order operates forward but it looks backward and in that it attaches new consequences for the future to an event that took place before the Government Order was issued. If the Government Orders are understood in this perspective, there is no need to get into the issue



WP No.21253 of 2019

of ?retrospective operation. Thus, we are of the view that the Division Bench while rendering the judgment in V.Ramachandran case has dealt with the Government orders in its proper perspective and the judgment in V.Samy case is hereby overruled?.

4. In view of the judgment of the Full Bench, cited supra, the case of the writ petitioner deserves no further consideration.

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

30-11-2022

Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn

To

1.The Secretary to Government,
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Chennai-600 009.

5/6



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WP No.21253 of 2019

S.M.SUBRAMANIAM, J.

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WP 21253 of 2019

30-11-2022