



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.10492 of 2019

WEB COPY

M.Gunasekaran (HC No.1313)

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep.by Secretary to Government,
Home Department,
Fort St.George,
Chennai.

2. The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai-4.

3. The Commissioner of Police,
Madurai City,
Madurai District.

4. The Superintendent of Police,
District Police Officer,
Madurai District,
Madurai.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders vide proceedings in C.No.A1/19691/411/2017 dated 21.12.2017 and proceedings in Na.Ka.No.A2/47681/641/2017-3 dated 19.12.2017 passed by the 3rd and 4th respondents respectively and quash the same in so far as the petitioner is concerned and consequently direct the respondents to revise the pension and other retirement benefits by advancing the upgradation/notional promotion as Grade-I Constable/ Head Constable on completion of 10/5 years and upgrade as Sub Inspector of Police on completion of 25 years of service.

For Petitioner

: Mr.T.Antony Arul Raj

For Respondents

: Mr.A.K.Manikkam

Special Government Pleader



ORDER

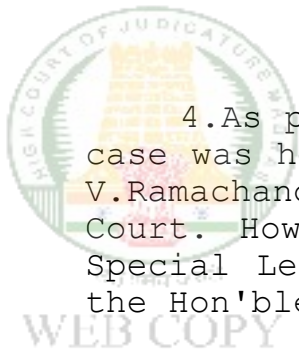
The relief sought for in this writ petition is to quash the impugned orders vide proceedings in C.No.A1/19691/411/2017 dated 21.12.2017 and proceedings in Na.Ka.No.A2/47681/641/2017-3 dated 19.12.2017 passed by the third and fourth respondents respectively and consequently direct the respondents to revise the pension and other retirement benefits by advancing the upgradation/notional promotion as Grade-I Constable/ Head Constable on completion of 10/5 years and upgrade as Sub Inspector of Police on completion of 25 years of service.

2. Based on such notional promotion, a batch of writ petitions were filed with the similar claim for retrospective promotion and the learned counsel for the petitioners made a submission that against the judgment of the Hon'ble Division Bench, Special Leave Petition was filed and the matter is subjudiced before the Hon'ble Supreme Court of India.

3. However, the learned Special Government Pleader appearing for the respondents made a submission that during the pendency of the Special Leave Petition before the Hon'ble Supreme Court of India, the Hon'ble Full Bench of this Court decided the issue and delivered the judgment on 04.02.2022 as follows:

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

"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 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.As per the judgment of the full bench, the judgment in V.Samy case was held as the law not correctly lay down and the judgment in V.Ramachandran case, is upheld by the Hon'ble Full Bench of this Court. However, it is contended that against V.Ramachandran case, Special Leave Petition was filed and the same is subjudiced before the Hon'ble Supreme Court of India.

5.In view of the facts and circumstances, the judgment of the Full Bench upholds and as of now Special Leave Petition in V.Ramachandran case is pending before the Hon'ble Supreme Court of India. If at all any orders are passed by the Hon'ble Supreme Court of India in the said case, and if any benefit is granted, the petitioner is at liberty to approach the competent authorities for redressal of his grievances. However, as of now, the judgment of the Full Bench of this Court, dated 04.02.2022, is to be followed in all respects.

6.With the above observations, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Secretary to Government,
Home Department,
Fort St.George,
Chennai.
2. The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai-4.
3. The Commissioner of Police,
Madurai City,
Madurai District.
4. The Superintendent of Police,
District Police Officer,
Madurai District,
Madurai.

+1 CC to M/s.SPL.GP (SR-17174[F] dated 07/04/2022)

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06.04.2022

MGJ(11.05.2022) 3P 6C