



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.04.2022

CORAM:

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

WEB COPY

W.P. (MD)No.13114 of 2019

&

WMP (MD)No.9777 of 2019

M.Gabriel

... Petitioner

Vs.

1. The Secretary to Government,
Home Department,
Government of Tamil Nadu,
Fort.St.George,
Chennai-600 009.

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

3. The Superintendent of Police,
Tiruchirappalli District,
Tiruchirappalli.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the first respondent in G.O. (3D) No.65 dated 13.08.2018 and to quash the same and consequently directing the 1st respondent to consider and pass orders on the basis of the petitioner's representation dated 13.11.2013 for notional promotion and retirement benefits in the light of G.O.Ms.No.844 Home Department, dated 03.06.1997 and G.O.Ms.No.15 Home Department, dated 07.01.2010.

For Petitioner : Mr.MA.Karunanithi

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

The relief sought for in this writ petition is to quash the impugned order passed by the first respondent in G.O.(3D) No.65 dated 13.08.2018 and consequently to direct the first respondent to consider and pass orders on the basis of the petitioner's representation, dated 13.11.2013 for notional promotion and retirement benefits, in the light of G.O.Ms.No.844 Home Department, dated 03.06.1997 and G.O.Ms.No.15 Home Department, dated 07.01.2010.



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 Additional 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

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

+1 CC to M/s.M. KARUNANITHI, Advocate (SR-17303[F] dated 07/04/2022)

+1 CC to M/s.SPL.GP (SR-17528[F] dated 08/04/2022)

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