



W.P(MD)No.9977 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9977 of 2018

and

W.M.P(MD)No.9122 of 2018

Shanmugam

... Petitioner

Vs

1.The Home Secretary,
State of Tamil Nadu,
Fort St.George,
Chennai – 9.

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

3.The Account General,
Office of the Account General,
No.361, Anna Salai,
Chennai – 18.

4.The Commissioner of Police,
Madurai City,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order passed by the fourth respondent in



W.P(MD)No.9977 of 2018

No.A1/19691/411/2017 dated 21.12.2017 and quash the same and consequently direct the respondents to grant notional promotion to the petitioner as per the Government Orders in G.O.Ms.No.15/2010 and to grant consequential monetary and terminal benefits to the petitioner.

For Petitioner : Mr.R.Manoharan
For Respondents : Mr.A.K.Manikkam
Special Government Pleader
for R.1, R.2 & R.4

Mr.P.Gunasekaran for R.3

ORDER

Heard the learned counsel on either side.

2. The case of the petitioner is that he should have been made as Special Sub Inspector of Police on completion of 25 years of service after entry into the Department. This issue had already been held against the writ petitioner by the Hon'ble Full Bench in the decision reported in ***2022-1-L.W.984 (The State of Tamil Nadu & Others Vs C.Srinivasan)***.

Paragraph 42 of the decision of the Hon'ble Full Bench is 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:-



WEB COPY



W.P(MD)No.9977 of 2018

“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”.

3. The learned counsel appearing for the petitioner points out that the decision rendered in V.Ramachandran’s case is the subject matter of SLP No.6980-6996/2018. The Hon'ble Apex Court is now seized of the matter.

4. Be that as it may, as on date the decision of the Hon'ble Full Bench is holding the field. Respectfully following the said decision,



W.P(MD)No.9977 of 2018

I dismiss the writ petition. I make it clear that in the event of SLP in V.Ramachandran's case being allowed and if any benefit is granted, the petitioner is at liberty to approach the competent authority for redressal of his grievance. The competent Authority is obliged to apply the decision and extend the benefit if such occasion arises. It is needless to mention that the competent authority will extend such benefit only if the petitioner's case also falls within its scope and limits. This writ petition is dismissed with the aforesaid liberty and direction. Consequently, connected miscellaneous petition is closed. No costs.

11.10.2022

Index : Yes / No
Internet : Yes/ No
mga

To

- 1.The Home Secretary,
Fort St.George,
Chennai – 9.
- 2.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai – 4.



W.P(MD)No.9977 of 2018

3.The Account General,
Office of the Account General,
No.361, Anna Salai,
Chennai – 18.

4.The Commissioner of Police,
Madurai City,
Madurai.



WEB COPY



W.P.(MD)No.9977 of 2018

G.R.SWAMINATHAN, J.

mga

W.P.(MD)No.9977 of 2018

11.10.2022