



W.P(MD)No.23940 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23940 of 2022

and

W.M.P.(MD)Nos.18033 & 18034 of 2022

B.Thirumalaiyandi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home Department,
Fort St.George, Chennai-9.

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

3.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

4.The Accountant General,
Accounts and Entitlement,
Pension Section-15,
361 Anna Salai,
Chennai-19.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, to call for the



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records pertaining to the impugned order in Pen4/1/10418131/2015-16/ADK/NAR/39 dated 25.08.2015 passed by the 3rd respondent relating to the denial of petitioner's promotion as Selection Grade Sub Inspector of Police and quash the same and consequently direct the respondents to revise the pension and other retirement benefits by advancing and implement the upgradation.

For Petitioner : Mr.A.Ganiappan
For R1 to R3 : Mr.R.Suresh Kumar
Additional Government Pleader
For R4 : Mr.P.Gunasekaran

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:-

“We hold that the Division Bench in V.Samy case did not lay down the law correctly and we uphold



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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, I dismiss the writ petition. I make it clear that in the event of SLP in



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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.

5. This writ petition is dismissed with the aforesaid liberty and direction. No costs. Consequently, connected miscellaneous petitions are closed.

18.10.2022

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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