



W.P.(MD).Nos.3509 and 4547 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.3509 and 4547 of 2016

W.P(MD)No.3509 of 2016:

P.Muthiah

... Petitioner

Vs.

1.The Secretary of Government State of Tamil Nadu,
Home (Police IV) Department,
Fort St.George,
Chennai-600 009.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai.

3.The Accountant General,
(General and Entitlements),
Tamil Nadu,
Chennai-18.

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

... 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 records pertaining to the order passed by the fourth respondent in his



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proceedings C.No.A2/11327/230/2015 dated 09.03.2015, and consequential order passed by the second respondent in his proceedings R.C.No.013224/NGB III(2)/2015, dated 02.06.2015 and quash the same, and consequently direct the respondents to disburse all pensionary and retirement benefits by revising the pension pay scale in par with other beneficiaries who were promoted as Special Sub-Inspector of Police vide proceeding dated .6.13.

W.P(MD)No.4547 of 2016:

R.Thangavel

... Petitioner

Vs.

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai.

2.The Inspector General of Police,
Tamil Nadu Railway Police,
Chennai.

3.The Superintendent of Police,
Tamil Nadu Railway Police,
Trichy.

... 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 records pertaining to the order passed by the third respondent in his proceedings R.C.No. A1/1514/2015 dated 13.02.2015 and quash the same and consequently direct the respondents to revise and regularize the service seniority and give notional promotion with monetary benefits.



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For Petitioner : Mr.S.Chellapandian
(In both Writ Petitions)

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader
(In both Writ Petitions)

COMMON ORDER

The Writ Petitions have been filed for issuance of Writ of Certiorarified Mandamus, to quash the impugned order passed by the respondents and consequently direct the respondents to revise and regularize the service seniority and give notional promotion with monetary benefits and also direct the respondents to disburse all pensionary and retirement benefits to the petitioners.

2. When the writ petitions were taken up for hearing, the learned Special Government Pleader appearing for the respondents submitted that the issue of granting upgradation / promotion to the next level in the Police Department was considered by the Hon'ble Full Bench of this Court vide order dated 04.02.2022 passed in *State of Tamil Nadu and others Vs. C. Srinivasan (W.A. Nos. 3748 of 2019 batch order dated 04.02.2022)* reported in *2022 (1) CTC 833*. The issue that was referred is whether the upgradation/promotion to the next level



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can be granted only on completion of qualifying service as prescribed by the relevant Government Orders or can it be granted as deemed upgradation or deemed promotion. The Hon'ble Full Bench has held that the proposition laid down in the case of *The Principal Secretary to Government Vs. V.Ramachandran and others [Review Application Nos.70 to 79 etc. of 2015 dated 22.03.2017]* has laid down the correct proposition of law. The judgment rendered in the case of *The Government of Tamil Nadu represented by Home Secretary Vs. V.Samy and others [W.A.(MD).No.1506 of 2011 etc. batch dated 17.06.2013]*, did not lay down correct proposition of law and the Hon'ble Full Bench overruled the judgment of Sami's case (stated supra). The Hon'ble Full Bench has held that there is no question of deemed upgradation or deemed promotion and the benefit can be extended only on completion of qualifying service in each level. The relevant portion of the order is extracted 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



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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 dealt with the Government orders in its proper perspective and the judgment in V.Samy case is hereby overruled.”

3. Following the Hon’ble Full Bench Judgment, the Hon’ble Division Bench in W.A.Nos.3748 of 2019 etc., batch has allowed the Writ Appeals filed by the State.

4. At this juncture, the learned counsel appearing for the petitioners submitted that against the judgment of Ramachandran case (stated supra), S.L.P. No(s).6980 to 6996 of 2018 was filed and the case is pending. The Learned Special Government Pleader submitted that the similar plea was submitted before the Learned Single Judge while considering the case filed in W.P.(MD).No.17111 of 2019, wherein, the said Writ Petition was dismissed vide order dated 02.03.2022 and the relevant portion is extracted hereunder:



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“3. However, this Court is of the considered opinion that in the event of disposal of the Special Leave Petition by the Hon'ble Supreme Court of India, if any benefit is granted, thereafter, the petitioner is at liberty to claim the same based on the judgment to be passed by the Hon'ble Supreme Court of India”.

5. Hence, following the judgment dated 04.02.2022 of the Hon'ble Full Bench and the judgment dated 15.03.2022 rendered by Hon'ble Division Bench in W.A.Nos.3748 of 2019 etc., batch and the judgment rendered in W.P.(MD).No.17111 of 2019 by Learned Single Judge, this Court is inclined to dismiss the present Writ Petitions. Hence, these Writ Petitions are dismissed. However, if any benefit is granted in Special Leave Petition by the Hon'ble Supreme Court, the petitioners are at liberty to claim the same after the disposal of the SLP. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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