



W.A.No.1509 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.3.2023

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.A.No.1509 of 2015
M.P.No.1 of 2015

- 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-9.
- 3 The Superintendent of Police,
District Police Office, Cuddalore District. ... Appellants/Respondents

Vs.

K.Mohan ... Respondent/Petitioner

Writ Appeal filed under Section 15 of Letters Patent to set aside the order passed in W.P.No.24111 of 2014 dated 5.09.2014 on the file of this Court.

For Appellant : Mr.S.Manoharan, A.G.P.
For Respondents : Mr.V.Ravikumar



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JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR, J.)

The challenge in the Writ appeal is against the order passed by the Writ Court directing the respondents to revise the pension and other pensionary benefits correspondingly by advancing upgradation of the respondent/writ petitioner as Grade I Police Constable/Head Constable on completion of 10/5 years and to upgrade him notionally as Special Sub Inspector of Police from the date of completion of 25 years of service and as Inspector of Police, in the light of Government orders passed in G.O.(Ms) No.15 dated 7.1.2010.

2. The learned Additional Government Pleader appearing for the appellants relied on the Full Bench judgment of this Court in ***The State of Tamil Nadu Rep. by its Secretary to Government, Home Department, Fort St.George, Chennai 600 009 and 2 others vs. C.Srinivasan [W.A.No.3748 of 2019, etc. Batch of cases, dated 4.2.2022*** wherein the Honourable Full Bench answered to the question that has been referred to the Full Bench which reads as follows:

“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



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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. In the light of Full Bench judgment answering to the question that has been referred to the Full Bench, wherein it is held that 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. In the instant appeal, the respondent/writ petitioner had not produced any materials to show that the petitioner had completed the minimum qualifying service at the time of promotion and



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therefore, the decision of the Full Bench cited supra, is squarely covered by the facts of the present appeal also.

4. Such view of the matter, order passed by the learned Single Judge in W.P.No.24111 of 2014 dated 5.09.2014 is set aside. Consequently, the Writ appeal stands allowed. No cost. Connected miscellaneous petition is closed.

(D.K.K.J.) (K.G.T.J.)
29.3.2023

Speaking/Non Speaking order
Index: Yes
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To

- 1 The Secretary to Government, State of Tamil Nadu
Home Department, Fort St. George, Chennai-9.
- 2 The Director General of Police, Kamarajar Salai, Mylapore, Chennai-9.
- 3 The Superintendent of Police, District Police Office, Cuddalore District



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**D.KRISHNAKUMAR, J
AND
K.GOVINDARAJAN THILAKAVADI, J.**

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