



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.19938 of 2012

A.Elumalai(SSI)(HC-623)

.. Petitioner

Vs.

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

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

3. The Commissioner of Police,
Chennai Sub-urban,
St.Thomas Mount,
Chennai - 600 016.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 3rd Respondent in



RC.No.203/41068/A-I(2)/2010, SPO No.1698/2010, dated 24.08.2010 and quash the same and consequently direct the Respondents No.2 & 3 to fix the seniority and give the further promotion with monetary benefits to the petitioner.

For Petitioner : Mr.S.Anbazhagan for
Mr.A.Rajaram

For Respondents : Mr.G.Ameedim
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The case of the petitioner is that he should have been made as Sub Inspector of Police on completion of 25 years of service after entry into the Department. The issue had already been held against the writ petitioners 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



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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



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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 petitioners 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 V.Ramachandran's case being allowed and if any benefit is granted, the petitioners are 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 petitioners' case also falls within its scope and limits. This writ petition is dismissed with the aforesaid liberty and direction. No costs.

18.12.2023

Index : Yes/No

Speaking order / Non speaking order



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MUMMINENI SUDHEER KUMAR, J.

adl

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