



W.A.No.1740 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

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CMP No.13899 of 2018

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

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

3. The Superintendent of Police,
District Police Office, Pudukkottai.

... Appellants

Vs.

P.Arasappan

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 25.09.2014 made in W.P.No.26323 of 2014 on the file of this Court.



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For Appellants : Mr.L.S.M.Hasan Fizal, Addl.Govt.Pleader

WEB COPY For Respondent : No appearance

J U D G M E N T

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

The Writ Court has passed a common order in W.P.Nos.26318 to 26325 of 2014 dated 25.09.2014 and challenge was made with regard to W.P.No.26323 of 2014 by this intra Court Appeal by the official respondents.

2. Despite notice has been served and name is printed in the cause list, no representation for the respondent, and none appeared on behalf of him.

3. The respondent herein/ writ petitioner and others filed separate writ petitions before the Writ Court. According to the respondent/writ petitioner, as per G.O.Ms.No.15 Home (Pol.V) Department dated 07.01.2019, a person, who was recruited as Grade-I Police Constable, on his completion of 25 years of service, irrespective of holding the post of Head Constable for 10 or 5 years, is entitled to be upgraded as Special Sub Inspector of Police and



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as the petitioner was appointed as Grade-II Police Constable during the period from 1969 and 1976, and he had completed 25 years of service, he ought to have been upgraded as Special Sub Inspector of Police on his completion of 25 years. Therefore, he filed the writ petition seeking to revise the pension and other retiral benefits correspondingly advancing upgradation as Special Sub Inspector of Police notionally with effect from the date of completion of 25 years.

4. The Writ Court, by its common order dated 25.09.2014, has directed the appellants herein to upgrade the service of the writ petitioner, as Special Sub Inspector of Police on his completion of 25 years of service and re-fix his pay and grant other benefits, to which, he is legally entitled to. The above order is impugned herein.

5. The learned Additional Government Pleader appearing for the Government submitted that a Division Bench of this Court in a case in ***The Government of Tamil Nadu, Rep. by Home Secretary Vs. V.Samy and others (W.A.(MD) No.1506 of 2011 etc. batch dated 17.03.2013)***, granted



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upgradation as Special Sub Inspector of Police, on completion of 25 years of service, irrespective of the period of service. However, in yet another case in

The Principal Secretary to Government Vs. V.Ramachandran and others (Rev.A.Nos.79 of 2015 etc. batch dated 22.03.2017), the Division Bench of this Court took a contrary view to the effect that the claim of deemed promotion cannot be accepted. In view of conflict judgments rendered by this Court, reference was made to the Larger Bench to decide the issue, whether total service rendered in Grade-II Police Constable, Grade-I Police Constable and Head Constable has to be taken into consideration for promotion to the post of Special Sub Inspector of Police or 10 years of service in Grade-II Police Constable; 5 years of service in Grade-I Police Constable; and 10 years of service in Constable has to be taken into account.

6. The learned Additional Government Pleader further submitted that the Larger Bench of this Court, by an order dated 04.02.2022 made in W.A.Nos.3748 of 2019 etc. batch, has answered the questions framed by the First Bench of this Court, thereby, upholding the proposition laid down by this Court in ***V.Ramachandra case*** (as stated supra) and overruled the



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judgment passed by this Court in *V.Samy case* (as stated supra). The Larger Bench of this Court has given clarity that the benefit of upgradation of next level promotion can be granted only on completion of qualifying service in each level/rank, as prescribed in the relevant Government Orders. Therefore, he submitted that the order passed by the learned Single Judge, granting deemed upgradation/promotion, need interference by this Court.

7. We heard the learned Additional Government Pleader and perused the materials available on record.

8. The Larger Bench of This Court, in W.A.Nos.3748 of 2019 etc. batch dated 04.02.2022, has observed as follows.

42. Inview 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 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



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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".

In the light of the decision rendered by the Larger Bench of this Court, we inclined to allow the writ appeal.

9. Accordingly, the Writ Appeal stands allowed and the order passed by the Writ Court is hereby set aside. Consequently, connected miscellaneous petition is closed. Further, it is for the appellants to consider the promotion of the writ petitioner, if he is otherwise eligible, by completing qualifying service in each level, as prescribed in the relevant government orders.



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(D.K.K.J.)

(K.G.T.J.)

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Index: yes/no

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