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W.P.Nos. 14580 of 2014 & etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL**

**W.P.Nos. 14580, 23434, 23435, 23436, 23437, 23438, 30454,
32639 of 2014 and 867,3472, 5607,5885,5886, 5887, 5888,
8396, 26594 29905 of 2015 and 39259 of 2016 and 17976,
17977, 26615 of 2017 and 2183, 2184, 14513, 20032 of 2018
and 314, 322, 317, 324, 328, 330, 333, 5303, 5310 and 23864
of 2019.**

And

**WMP.Nos. 1392 of 2020, 22868 of 2017, 38658 of 2016, 6020
of 2019**

and 6027 of 2019

W.P.No. 14580 of 2014

V.Marimuthu
S/o.Vellaiyan
No.4/270 Thiruchencode Road
Gandhi Nagar Viyappanmalai Post,
Namakkal District.

..Petitioner

Vs

- 1 The Principal Secretary to the Government,
Home DOL-III Department
St. George Fort, Chennai.



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

3 The Superintendent of Police
Namakkal District,
Namakkal.

4 The District Collector
Namakkal District, Namakkal.

..Respondents

Prayer in W.P.No. 14580 of 2014: Writ Petitions are filed under Article 226 of Constitution of India to issue a writ of certiorarified mandamus, calling for the records pertaining to the order of the 3rd respondent in R.C.No. A2/02564/2014 dated 10.02.2014 and quash the same and consequently direct the respondents to promote the petitioner as Special Sub-Inspector of Police after the completion of 25 years of service based on G.O.Ms.No. 844 Home Department, dated 03.06.1997 and Government Letter No.107160 Home Department dated 07.01.1998 and disburse all monetary benefits.

For Petitioners : M/s.C.K.M.Appaji

For Respondents : Mr.A.Selvendran, Spl.GP – R1 to R4

COMMON ORDER

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

Challenging the qualifying the service for the upgradation to the post of SSI of police all the writ petitions have been filed.



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2. The issue involved in these writ petitions has been referred to the Hon'ble Full Bench of this Court in view of two conflict judgments. The Hon'ble First Bench in the case of Principal Secretary to Government Vs. V.Ramachandran & Others has taken contrary view with the earlier judgment of the Hon'ble Division Bench of this Court in the case of The Government of Tamil Nadu (represented by Home Secretary) Vs. V.Samy & Others. The Hon'ble Full Bench, after detailed examination of above two judgments in W.A.Nos. 3748 of 2019 etc., batch, and after having elaborate discussions, has answered that the benefit of upgradation/promotion to the next level can be granted/claimed only on completion of qualifying service in each level/rank as prescribed in the relevant Government Orders.

3. Paragraph Nos. 40 & 42 of the judgment of the Hon'ble Full Court is extracted hereunder;

40. The finding of the later Division Bench in V. Ramachandran case to the effect that 10 years of qualifying service in the rank of Head Constable out of the total service of 25 years to be considered for the upgradation to the post of SSI of Police is the correct view.



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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 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".

4. Mr.A.Selvendran, learned Special Government Pleader has no objections in considering the writ petitions in light of the judgment of the Hon'ble Full Bench cited supra.

5. The Hon'ble Full Bench of this Court in the judgment extracted supra, has categorically given finding that 10 years of qualifying service in the rank of Head Constable out of the total service of 25 years to be considered for the upgradation to the post of SSI of Police.

6. In light of the decision of the aforesaid judgment of the Hon'ble Full Bench, the writ petitioners herein who have not completed qualifying service at each rank are not eligible for consideration of promotion to the post of SSI of Police. Accordingly, the writ petitions are ***dismissed***. However liberty is granted to the writ petitioners who



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have completed qualifying service as prescribed by the Hon'ble Full Bench, shall approach the respondent by way representation.

No costs. Consequently, connected Miscellaneous Petitions are closed.

(D.K.K., J.) (P.D.B., J.)

07.06.2023

Index: Yes / No

Internet: Yes

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To

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