



W.P.Nos.20894, 23286, 23294, 27030 of 2022 & 2262 of 2023 and
W.M.P.Nos.19931, 19932, 19933, 22236, 22238, 22239,
26247, 26249, 26250, 2342 and 2343 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Delivered on
31~08~2023	20~09~2023

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.Nos.20894, 23286, 23294, 27030 of 2022 & 2262 of 2023

and

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W.P.No.20894 of 2022

1.G. Gnanasekar

2.P.Ezhildasan

3.G.Gopal

4.R.Thirumal

5.S.Akilan

6.Senbagavalli

7.B.Jamees Babu

8.T.Rajakumari

9.K.Ganapathy

... Petitioners

VS

1.The Secretary to Government
Home Department,
Secretariat, Fort St.George,
Chennai 600009

2.The Director General of Police
Office of the Director General of Police,
Dr. Radhakrishnan Salai, Chennai 600004.

3.P.Tamilselvi



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- 4.A.Potta
- 5.D.Valli
- 6.V.Thiripurasundari
- 7.G.Thiruselvam
- 8.R.Jayanthi
- 9.V.Vembu
- 10.R.Valli
- 11.P.Mailammal
- 12.R.Kuzhali
- 13.A.V.Sophila
- 14.K.Pokodi
- 15.S.Karpagavalli
- 16.P.M.Jayanthi
- 17.P.Thirumaladevi
- 18.R.A.Vijayalakshmi
- 19.K.Kalaiselvi
- 20.P.Thenmozhi
- 21.K.Janaki
- 22.S.Indiara
- 23.M.C.Kavithadevi
- 24.Geetha
- 25.N.Mangalam
- 26.S.M.Janse Rani
- 27.V.Sasikala
- 28.N.Uma
- 29.R.Padmavathi
- 30.M.Tamilselvi
- 31.D.Renuga Devi
- 32.P.Kalaiselvi
- 33.Y.Aurockiya Gnancy Rubal
- 34.Y.Mehaboob jan
- 35.Latha
- 36.Lurdu Mary
- 37.P.Revathy



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38.Angayarkanni
39.P.S.Vijaya
40.R.Shanthi
41.Mallika
42.P.Shaila
43.U.Porkodi
44.Uma
45.Poovarasi
46.Thannila
47.Girija
48.Rajeswari
49.Lakshmi

... Respondents

W.P.No.23286 of 2022

1.S. Mani
2.S.Lokeshwaran
3.S.Madhankumar
4.Surendiran
5.S.Mahalingam
6.N.Rakkikumari
7.K. Kumar
8.G. Thulasi
9.Dhanraj
10.Sathish
11.Suresh
12.P.Seethapathi
13.D.Krishnamoorthy
14.P.Manickaraja
15.Suresh Babu
16.Shabuteen
17.V.Manikanda Ganesh

... Petitioners

VS

1.The Secretary to Government
Home Department,



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Secretariat, Fort St.George,
Chennai 600009

2.The Director General of Police
Office of the Director General of Police,
Dr. Radhakrishnan Salai, Chennai 600004.

... Respondents

W.P.No.23294 of 2022

S. Krishnamoorthy

... Petitioner

VS

1.The Secretary to Government
Home Department,
Secretariat, Fort St.George,
Chennai 600009

2.The Director General of Police
Office of the Director General of Police,
Dr. Radhakrishnan Salai, Chennai 600004.

... Respondents

W.P.No.27030 of 2022

1.M. Muthu Kumar
2. Prathap Chandran
3. J.Shankar
4. C.Murali
5. S.Kishore Kumar

... Petitioners

VS

1.The Secretary to Government
Home Department,
Secretariat, Fort St.George,



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W.M.P.Nos.19931, 19932, 19933, 22236, 22238, 22239,
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Chennai 600009

2.The Director General of Police
Office of the Director General of Police,
Dr. Radhakrishnan Salai, Chennai 600004.

... Respondents

W.P.No.2262 of 2022

1.S. Prabakaran

... Petitioner

VS

1.The Principal Secretary to Government
Home Department,
Secretariat, Fort St.George,
Chennai 600009

2.The Director General of Police
Office of the Director General of Police,
Dr. Radhakrishnan Salai, Chennai 600004.

3. A.V.Sophia

4. K.Porkodi

5. S.Karpagavalli

... Respondents

Prayers in W.P.No.20894, 23286, 23294, 27030 of 2022: Writ Petitions are filed under Section 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned Memorandum dated 18.09.2017 bearing RC.No.146633/NGB IV(1)/2017 issued by the 2nd Respondent and quash the same.



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Prayer in W.P.No.2262 of 2023: Writ Petition is filed under Section 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned order dated 25.02.2011 bearing G.O.Ms..No.152, Home (Police-III) Department issued by the 1st Respondent and also call for the records in Impugned Order Memorandum dated 18.09.2017 bearing RC.No.146633/NGB IV(1)/2017 issued by the 2nd Respondent and quash the same.

For Petitioners : Mr.N.L. Rajah
Senior Counsel for
Mr. S. Mahesh Kumar
[in W.P.No.20894/2022]

Mr.R. Ganesh Kumar
[in W.P.Nos.23286 & 23294/2022]

Mr.K.Selvamani
[in W.P.No.27030/2022]

Mr.N.L. Rajah
Senior Counsel for
Ms. B. Anandhi
[in W.P.No.2262/2023]

For Respondents : Mr. P. Kumaresan
Additional Advocate General
Assisted by
Mr.P. Baladhandayutham
Special Govt. Pleader
Mr.J. Daniel
Government Advocate
[for R1 & R2 in all WPs.]



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Mr.L.Chandrakumar [for R3 to R9
in W.P.No.20894/2022]

Mr.V.Ramamurthy
[for R10 to R12 & R16 to R29
in W.P.No.20894/2022]

Mr.R.Balachanderan
[for R13 to R15 & R30 to R49
in W.P.No.20894/2022]

COMMON ORDER

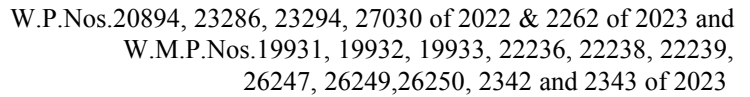
W.P.Nos.20894, 23286, 23294, 27030 of 2022 have been filed challenging the Memorandum of the 2nd Respondent viz., The Director General of Police, in RC.No.146633/NGB IV(1)/2017 dated 18.09.2017 and to quash the same. W.P.No.2262 of 2023 has been filed to quash above Memorandum as well as the G.O.(Ms) No.152, Home (Police-III) Department dated 25.02.2011 issued by the 1st Respondent, the Principal Secretary to the Government of Tamil Nadu and quash the same.

2.a. The Main contention of the Writ Petitioners is that they are directly recruited as Sub-Inspector of Police on 01.02.2011. It is the contention that the Grade-I Women Police Constables batch of 1991 were not completed the period of ten years of Head Constable to become a Special Inspector of Police as mandated



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by G.O.Ms.No.937, Home (Pol.III) Department, dated 21.07.1998. By way of impugned G.O.(Ms) No.152 dated 25.02.2011 the 1st Respondent ordered for the upgradation of 1990 & 1991 batch Grade-1 Women Police Constables as Special Sub-Inspectors of Police. It is the contention that as per G.O.Ms.No.937, Home (Pol.III) Department, dated 21.07.1998, Grade-1 Women Police Constables have not completed their service as Head Constables for a period of ten years. Therefore, by Memorandum bearing RC.No.146633/NGB IV(1)/2017 dated 18.09.2017, the 2nd Respondent has advanced the list of 1991-1992 batch Grade-1 Women Police Constables for a period of five years by giving a notional seniority as a consequence of which Grade-1 Women Police Constables have placed over the seniority of the Petitioners. Hence it is the contention that only when the petitioners who have completed the qualified service and directly recruited as Sub-Inspector of Police w.e.f. 01.02.2011 are fit for promotion of Inspectors of Police. In the year 2022 the petitioner came to know about the impugned orders. Respondent cannot fix a notional date for advancement of 'B' list surpassing the seniority of the petitioners who are serving as Sub-Inspectors for more than 10 years and waiting for their first promotion in their career.



3.b. It is further contended that men police personnel, who had been upgraded as Head constables on 1.9.2008 and women Police are considered to be their juniors on account of the fact that these men police personnel had been upgraded as Grade 1 police constable only after the appointment of Women Grade



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1 police constables. It has been ordered in memorandum of the 2nd respondent in RC 211139/NGB V(2)/2009, dated 11.02.2016 that these women police personnel be notionally upgraded as women Head Constables with effect from 01/1999. Since the petitioners are not aggrieved by the said G O, they have not challenged the same, but they are challenging only the consequential actions.

3.c. It is also contended that on inclusion of junior men police personnel names in the said 'C' list for the panel years from 2010 to 2015, the date of 'B' List (date of promotion) as Sub Inspector of police in respect of this women personnel who had been included in the said 'C' List for the panel years 2010 to 2015 in the respective ranges/cities, had been advanced instead of 11.04.2016, on par with the junior men police personnel, vide memo. No.146633/NGB IV(1)/2017, dated 18.09.2017. The claim of the Women Grade 1 Police Constables of 1990 & 1991 batch for stepping up their position on par with Men Police personnel who had been upgraded as Grade 1 Police Constables after appointment of these Women personnel, had been considered as a legitimate one and hence their date of promotion as Sub-Inspector of Police had been advanced on par with Junior Men personnel invoking Rule 4 of Special Rules for the Tamil



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Nadu Police Sub-ordinate Services. As per the provision laid down in the special rules for Tamil Nadu Police Subordinate Service, an individual holding the post of Head Constables and who has completed 4 years of service and probation in that post and having an overall service of 7 years can be promoted as Sub Inspector of Police according to the seniority and merit. As alleged by the petitioners there is no 10 years mandatory service prescribed in the said special rules for according promotion from the rank of HC to SI.

3.d. The promotion to the next higher post is considered based on the seniority and merit. Senior most eligible persons in a lower post, irrespective of their mode of appointment, are promoted to the next higher post based on their date of appointment/promotion in a lower post. It is relevant to note that as per sub section (2) of section 40 of the Tamil Nadu Government Servants (condition of service) Act, 2016 the seniority of a person in a service, class, category or grade shall, Where the normal method of recruitment to that service, class, category or grade is by more than one method of recruitment, unless the individual has been reduced to a lower rank as a punishment, be determined with reference to the date on which he is appointed to the services, class, category or grade. Hence, as per



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the provision of Act and Rules referred above, these women police personnel had been seniors to the directly recruited SIs of 2011 batch (whose dated of appointment as SI is 01.02.2011) based on the fact that the date of declaration of 'B' List (date of promotion) as SI in respect of these women police personnel had been declared as 26.01.2011. Accordingly, the Women Police Personnel had been placed over and above the directly recruited Sub-Inspectors of Police in the 'C' List of SIs fit for promotion as Inspectors of Police for the panel year 2022-2023.

3.e. Therefore, it is the contention of the Respondents that the Petitioners have not made out any case and have not substantiated their allegations as to how they are seniors to the women police personnel enlisted as SI on 26.01.2011 prior to their enlistment on 01.02.2011. The Petitioners have also not substantiated as to why they were not suggested by the earlier actions, but only by the Memorandum dated 18.09.2017, that too, after a lapse of 5 years, for which inordinate delay and laches, the petitioners have no justifiable reasons. Hence, these writ petitions are not maintainable and unsustainable the same are liable to be dismissed.



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4.a. The learned counsel appearing for the petitioners submitted that according to G.O.(Ms) No.937, Home (Police-III) Department dated 21.07.1998, the post of SSI of Police was created. The post was created for the Head Constables who were stagnated to their position due to the fact that the exams were not conducted for the promotion of SI on account of administrative reasons. The G.O.(Ms) No.937, made it very clear that for a person to claim upgradation to the post of SSI of Police, 10 years of Service as Head Constables was mandatory without any exception. The Concerned Constables should have put in 25 years of overall service out of which 10 years of service as Head Constable was mandatory to become entitled for upgradation to the post of SSI of Police.

4.b. The Grade 1 Women Police Constables of Batch 1990-1991 have not finished the mandatory period of 10 years. 1990-1991 batch Grade I Women Police who were given notional promotion from the post of Head Constables to SSI of Police are not qualified for notional promotion as mandated by the said G.O. As per the said G.O.Ms.No.937 they have not completed the service of 10 years as Head Constables, as they started their service on 21.01.2003 as Head



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Constables and they were given upgradation vide on 25.02.2011 w.e.f. 1/2009.

This clearly shows that the 1990-1991 batch Grade I Women have completed only 8 years of service as Head Constables and they have not satisfied the qualifying service of 10 years as Head Constables. The 2nd Respondent has failed to consider the G.O.(MS) No.937 while issuing the Impugned Order. Hence submitted that the impugned orders have to be quashed.

4.c. In support of their contention the learned counsel appearing for the Petitioners relied upon the judgment of Full Bench of this Court in ***State of Tamil Nadu and ors. vs. C. Srinivasan dated 04.02.2022 [MANU/TN/1810/2022]*** wherein this Court has held that the benefit of upgradation to the next level of promotion can be granted only by taking into account the completion of the qualifying service in each level of rank is prescribed in the above G.Os. There is no scope for any deemed upgradation or deemed promotion to the next level / rank and such an interpretation of the G.Os. will cause violence to the plain language that has been used in those G.Os. Therefore, it is the contention that the Petitioners are recruited as Sub-Inspectors on 01.02.2011 the Grade-1 Women



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Police Constables are working as Head constables and the Petitioners were recruited as Sub-Inspectors.

4.d. The Division Bench of this Court in ***The Government of Tamil Nadu & Ors -Vs- Ramasamy [W.A. No.1729 of 2017 and C.M.P. No.22124 of 2017 dated 02.01.2023]*** also relied upon the above mentioned judgment of Full Bench of this Hon'ble Court and held that 10 years of Service in the post of Head Constable is mandatory for promotion to the post of Special Sub-Inspector.

4.e. In ***The Government of Tamil Nadu & others Vs V.Gunasekaran, SSI & 2 others [Writ Appeal No.3383 of 2019 dated 23.02.2021]*** Division Bench of this was held that "*upgradation cannot be treated as promotion. The Claim of promotion to a post cannot be treated as a matter of right*".

5.a. The learned counsel appearing for the Respondents submitted that the writ petitions can not be maintainable at this stage due to inordinate delay and laches. The Women constables were appointed on 10.05.1991 as Gr.1 Women constable then as Head Constables during 2003 thereafter a Special Sub-Inspector



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of Police in 2011. All these had taken place much prior to the entry of the writ petitioners. The Memorandum dated 18.09.2017 refers to as many as four proceedings - two relatable to the Government orders and the other two relating to Chief Office Memo of 2016. Those proceedings have not been challenged. Therefore, only consequential proceedings which cannot stand alone has been questioned. Hence it cannot be held maintainable.

5.b. It is their further contention that the Department had only rectified the mistake which had crept in by re-changing the fixation of seniority that is the advancement in the seniority which was wrongly done in 2003 and 2011 to that of 1999 and 1.1.2009 in the cadre of Head Constable and Special Sub-Inspector of Police respectively. Only in order to set right the mandate and statutory requirements respondents were imparted training as prescribed in the Rules. These persons have all gone one place above in the hierarchy to that of S.I. well ahead of the Writ Petitioners even before they could join duty on 01.02.2011 consequent upon the advancement which is put in question after a period of about six long years. Therefore, his contention is that the settled issues cannot be reopened at



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this stage and the writ petitions are liable to be dismissed.

5.c. In support of their contention the learned counsel appearing for the respondents relied upon the Honourable Apex Court in ***S.S.Balu and another vs State of Kerala and others [(2009) 2 Supreme Court Cases 479]*** wherein the Apex Court has held that delay defeats equity. Where a petitioner approaches High Court after a long delay, relief prayed for may be denied on the ground of delay and laches irrespective of the fact that he is similarly situated to the other candidates who obtain benefit of a judgment.

5.d. In ***State of Tamil Nadu vs. Seshachalam [(2007) 10 Supreme Court Cases 137]*** the Honourable Supreme Court has held that delay and laches is a relevant factor for the Court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a Government Servant may deprive him of the benefit which had been given to others.



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6. Heard both sides.

7. The main issue in these writ petitions is whether the writ petitioner can challenge the G.O.(Ms) No.152 dated 25.02.2011 after 12 years of its implementation and the impugned Memorandum dated 18.09.2017 after 5 years of its implementation without challenging the other Government Orders which granted benefit to the private Respondents.

8. The grievance of the Writ Petitioners is that they are directly recruited Sub-Inspector of Police of batch 2011 appointed on 01.02.2011 whereas the private respondents are appointed as Grade-1 women constables in the year 1990-1991. To become Special Sub-Inspector 25 years of service is required as per G.O.(Ms)No.937 dated 27.09.1998. This is also upheld by the Full Bench of this Court in *the State of Tamil Nadu and Ors. vs. C. Srinivasan* dated 04.02.2022. Whereas notional upgradation given by the Respondent/DGP to the Grade-1 Women Police Constable is the violation of the above G.O.(Ms) No.937. Now in the impugned order dated 18.09.2017, advancement of 'B' List of 1990-91 batch



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Grade-1 Women Police will affect the seniority of the petitioners.

9. It is relevant to note that the G.O.Ms.No.63 Home (Police V) Department dated 21.01.2003 came to be passed based on the recommendations from the Director General of Police letter No.198429/NGB, 7(1)/2002 dated 23.09.2002 and 29.11.2002 the Government considering the fact that there was no direct recruitment of Women Grade 1 Police Constables after 1991. As per Adhoc Rules 415 Women Grade-1 Police Constables who were directly recruited during the year 1991 were upgraded as Women Head Constables. Thereafter G.O.(Ms) No.152 Home (Police-III) Department dated 25.2.2011 was issued considering the fact that the Grade-1 men police constables who were upgraded as Grade 1 Police Constable upto 31.12.1993 were given Head Constable promotion notionally in 1/1998 and they were upgraded as Special Sub-Inspector of Police with effect from 01.09.2008, the Government has upgraded 1990-1991 batch Grade 1 Women Police Constable as Special Sub-Inspector of Police with effect from 01/2009 as a one time measure. On completion of another 10 years of service Women Head Constables may be given upgradation as Special Sub-Inspector of Police



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notionally with effect from 01.09.2008.

10. It is relevant to note that G.O.Ms.No.152 has been passed based on four Government Orders. (1) G.O.Ms.No.1101, Home (Police V) Department, dated 21.07.1995; (2) G.O.Ms.No.937, Home dated 21.07.1998; (3) G.O.2(D) No.428, Home dated 14.07.2006; and (4) G.O.Ms.440 Home (Police 3) Department dated 05.06.2009. It is to be noted that all other Government Orders referred in G.O.(Ms)No.152 Home (Police III) Department dated 25.02.2011 remain unchallenged. Thereafter, Memorandum of the Chief office dated 11.02.2016 was issued construing the services of 1990-1991 directly recruited Grade 1 Women Police Constables to be reckoned as Women Head Constables from 1/1999 on completion of 10 years as Head Constables as per Chief Office proposal which is mandatory for promotion as Special Sub-Inspector of Police and ordered that 1990-1991 batch direct Women Gr.1 PCs are considered to be notionally upgraded as Women Hcs w.e.f. 1/1999.

11. The above makes it very clear that women constables were given



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notional upgradation as Head Constables with effect from 1/1999 and Special Sub-Inspector of Police with effect from 1.9.2008 in G.O.Ms.No.152 relying upon earlier Government Orders and were upgraded as Special Sub-Inspector of Police with effect from 01/2009 as one time measure. Since the mandatory training for their promotion as Special Sub-Inspector of Police was not given at the relevant point of time, which was given later. Therefore, the advancement of the date of upgradation of Women Grade-1 Police Constables has been made and the date of 'B' List as declared earlier has been advanced for five years. In fact the Women Grade-1 Constables of 1990-1991 batch who had been included in 'C' List of Head Constables fit for promotion for Sub-Inspector of Police for the panel year 2010, were seniors to the directly recruited Sub-Inspector of Police of 2011 batch. Their date of appointment as Sub-Inspector of Police is 01.02.2011. Accordingly, the date of declaration of 'B' List as SI has been advanced.

12. G.O.Ms.No.152 makes it very clear that they have been upgraded as Head Constable with effect from 1/1998 notionally with men police constables. Thereafter, on completion of 10 years of service as Head Constable they have been



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the direct recruits who were already aware of the seniority issued, they said to have imparted training to the women SSI, this Court is of the view that they cannot challenge the impugned order with much delay. Several issues have been settled on the basis of the various Government Orders, the seniority was never been questioned in all these days. Therefore, the issues which are already been settled, the same cannot be unsettled merely on the ground of judgment of this Court which was passed latter, prescribing qualification.

13. Much reliance was placed on the judgment of the Full Court by the learned counsel for the Petitioner. Honourable Full Court in the case of ***Tamil Nadu & Others vs. C. Srinivasan [MANU/TN/1810/2022]*** has referred G.O.Ms.No.937 and discussed. The relevant portion of the judgment is as follows:

“38. A careful reading of the Government Orders clearly brings out the fact that there is no scope for any deemed upgradation. The G.Os. makes it abundantly clear that the concerned Police Constable or Head Constable, as the case may be, should have held the relevant post for a fixed period of time in order to claim for upgradation. If the The the Police personnel were aggrieved by such



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a stipulation, they ought to have challenged the Government Orders. No one has chosen to challenge the G.Os. and an attempt is being made to twist the G.Os to suit their requirement. This Court has to necessarily understand the G.Os. in the plain language used in those G.Os. and see if the concerned Police personnel is satisfying the requirement. When a benefit is conferred, the requirements to get such a benefit must be satisfied. There is no scope for a deemed satisfaction and what is expected is the actual satisfaction of the requirements. The concerned Police personnel want these G.Os. to be implemented in such a way that upon completing fixed period namely 25 years of overall service, they would get upgradation as Grade-1 Constable automatically and thereafter, as Head Constables automatically and ultimately as SSI of Police also automatically. There is no indication in the G.Os., for such automatic or deemed upgradation.

39.

40.

41. For the sake of clarity, we hold that the benefit of upgradation to the next level of promotion can be granted only by taking into account the completion of the qualifying service in each level of rank is prescribed in the above G.Os. There is no scope for any deemed upgradation or deemed promotion to the next level/rank and such an interpretation of the G.Os. will cause violence to the plain language that has been used in those G.Os. Every upgradation



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involves financial implications and the sanction is accorded by the Finance Department as per the terms of the G.O, by anticipating the exact increase in the expenditure by virtue of the upgradation/promotion. If such deemed upgradation or deemed promotion is read into the G.Os., it will not only go beyond the scope of G.Os.. but also will end up in granting the benefit to those persons, who are not covered under the Government Order. The direct consequence will be that there will be a huge outflow of expenditure than what was expected through the beneficial scheme and it will put a lot of strain in the State's exchequer.”

14. No doubt, in the qualification aspect the Full Court has held that when the benefit is conferred, the requirements to get such a benefit must be satisfied. There is no scope for a deemed satisfaction and what is expected is that the actual satisfaction of the requirements and completed the fixed period of overall service is required to make the benefit. This judgment has been delivered on 04.02.2022. However, the seniority orders have been passed in the year 2016. Based on that, seniority many of them have benefitted based on the Government Orders referred above. In such a view of the matter, this Court is of the view that settled things cannot be unsettled after lapse of many years. Therefore, this court is of the view



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that these Writ Petitions are certainly not maintainable on the ground of delay and laches.

15. The many Government Orders referred in the Impugned Orders have not been challenged. These writ petitions came to be filed only after the Full Bench have authoritatively declared the relevant qualification. Therefore, without challenging all the relevant Government Orders by impleading the all other beneficiaries under the above order this Court is of the view that at this stage, the seniority issue cannot be reopened.

16. Accordingly, all the Writ Petitions are dismissed on the ground of delay and laches. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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Index : Yes/No
Neutral Citation : Yes/No
ggs



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copy to:

- 1.The Secretary to Government
Home Department,
Secretariat, Fort St.George,
Chennai 600009
- 2.The Director General of Police
Office of the Director General of Police,
Dr. Radhakrishnan Salai, Chennai 600004.



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N. SATHISH KUMAR, J.
ggs

Common Order in:
W.P.Nos.20894, 23286, 23294, 27030 of 2022 & 2262 of 2023 and
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