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Writ Appeal No.3332 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.11.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN**

**Writ Appeal No.3332 of 2019
and C.M.P.No.21385 of 2019**

1. The Government of Tamil Nadu,
Rep. by its Home Secretary,
Fort St. George, Chennai – 600 009.
2. The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai – 600 004.
3. The Deputy Inspector General of Police,
Coimbatore Range, Coimbatore District.
4. The Superintendent of Police,
O/o. The Superintendent of Police,
Udhagai, The Nilgiris District.

... Appellants

Vs

1. D.Wiliam, SSI (HC 237)
2. K.Ramakrishnan, SSI (HC 118)
3. R.S.Sriram, SSI (HC 1034)
4. R.Raju, SSI (HC 1146)
5. S.Krishnamoorthy, SSI (HC 542)
6. K.Gopu, SSI (HC 926)
7. G.George William, SSI (HC 193)
8. H.Sivaji, SSI (HC 199)
9. Mohammed Ali Jinnah, SSI (HC 181)



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10. K.Gangadharan, SSI(HC 152)

11. S.James Paul, SSI (HC 941)

12. H.A.Gopal, SSI (HC 612)

13. A.Harisdass, SSI (HC 85)

14. G.David, SSI (HC 947)

15. R.Ramachandran, SSI (HC 280)

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 10.04.2013 made in W.P.No.11673 of 2011.

For Appellants	: Mr.Vadivelu Dheenadayalan, Additional Government Pleader
For Respondent	: R1 & R4 – No appearance R3, R5 to R7 and R14- served R2, R8 to R13 and R15 – Not ready in notice

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR,J.)

This intra-court appeal has been directed against the order passed by the Writ Court dated 10.04.2013 made in W.P.No.11673 of 2011.

2. In fact the issue raised in this appeal is covered by a decision of the Full Bench of this Court, which has been followed by subsequent Division Benches also.



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3. Based on a Government Order viz., G.O.Ms.No.844, Home Department dated 03.06.1997, automatic promotion has been sought for on completion of 10 years, 15 years and 25 years as Grade -I Constable, Head Constable and Sub-Inspector of Police.

4. This Court in the case of *W.A.No.1506 of 2011 & etc., batch in the matter of The Government of Tamil Nadu Vs. V.Samy [in short, **Samy's case**]* had ordered to grant promotion based on the above said Government Order.

5. The said view was conflicted by another Division Bench of this Court in *Review application Nos.70 of 2015 & etc., batch* in the case of *The Principal Secretary to Government Vs.V.Ramachandran*.

6. In view of the conflicting decisions made by two Division Benches, the matter had been ultimately referred to a Full Bench in the case of *State of Tamil Nadu Vs. C.Srinivasan* in *W.A.Nos.3748 of 2019 & etc., batch*, where the Full Bench ultimately held that the law declared by the Division Bench in *Samy's case* is not a correct law and ultimately as per the decision of the Full Bench, the decision taken by the Writ



Court in various writ petitions following the decision of said **Samy's** case was considered to be wrong decisions and accordingly, the respective intra-court appeals filed by the State against those orders passed by the Writ Court having been considered was allowed.

7. Similar writ appeals came up before a Division Bench, where one of us is a party (RSKJ) in **W.A.Nos.1705 of 2019 and 1746 of 2018** in the matter of **The Government of Tamil Nadu, rep. by Secretary, Home Department Vs. Jeevakumar** and those writ appeals were allowed by an order of the said Division Bench dated 24.07.2023, where the Division Bench held as follows:

*“7. The said order was passed based on the judgment of a Division Bench made in **W.A.No.1506 of 2011 & etc., batch** in the matter of **The Government of Tamil Nadu Vs. V.Samy** [in short, **Samy's case**].*

*8. However, subsequently another Division Bench in a batch of **Review application Nos.70 of 2015 & etc., batch** in the matter of **The Principal Secretary to Government Vs.V.Ramachandran** has taken a different view based on the relevant Government Orders, which were occupying the field.*



9. Since there has been two divergent views taken by two different Division Benches of this Court, the issue had been referred to a Full Bench for an authoritative pronouncement in **W.A.Nos.3748 of 2019 & etc., batch** in the matter of **State of Tamil Nadu Vs. C.Srinivasan**, where a Full Bench of this Court by order dated 04.02.2022 has held by declaring the law to the following effect:

“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”.

*10. Therefore, what has been held in **V.Samy's** case has been held to be not the correct law by the Full Bench in their judgment as stated supra. Therefore, following **V.Samy's** case directions were given and the writ petitions were allowed by the learned Judge, which are impugned herein, hence, these writ appeals are deserve to be allowed in view of the Full Bench judgement.*

*11. It is to be noted that, similar writ appeals in many numbers came up for consideration before another Co-ordinate Bench in **W.A.No.3748 of 2019 & etc., batch** in the matter of **State of Tamil Nadu Vs. C.Srinivasan** dated 15.03.2022, where this Court allowed all those appeals filed by the State in the following terms:*



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*“6. In view of the above submissions and taking into consideration the ratio laid down by the Larger Bench of this Court, **these Writ Appeals are hereby set aside and the respective orders of the learned Single Judges are hereby set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.**”*

12. In view of the same, we feel that these appeals are also entitled to succeed and accordingly, these appeals are allowed. No costs. Connected miscellaneous petitions are closed.”

8. In view of the settled legal position, where the Full Bench has already held that the view taken by the learned Judge in the order, which is impugned herein is incorrect and therefore, to that extent, we have no hesitation to hold that this writ appeal is deserve to be allowed.

Accordingly, this writ appeal stands allowed and the impugned order is set aside. No costs. Connected miscellaneous petition is closed.

(R.S.K.,J.)

(G.A.M., J.)

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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
mp



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