



Writ Appeal No.3973 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 24.07.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.3973 of 2019
and CMP.No.24891 of 2019**

1. The Government of Tamil Nadu,
Rep. By its Secretary to Home Department,
Fort St.George, Chennai.

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

3. The Deputy Inspector General of Police,
Salem Range, Salem District.

4. The Superintendent of Police,
O/o.The Superintendent of Police,
Namakkal District.

... Appellants/ Respondents

Vs

1.M.Chandrasekaran, SSI
2. R.Selvaraj
3. T.Murugesan

... Respondents



Writ Appeal No.3973 of 2019

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order of the learned Judge made in W.P.No.8622 of 2011 dated 10.04.2013.

For Appellants : Mr.K.V.Sajeev Kumar
Special Government Pleader

For Respondents : No appearance

JUDGMENT

(Judgment of the Court was delivered by Mr.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.8622 of 2011.

2. The three respondents herein were enlisted as Grade -II Police Constable on 22.09.1980, further promoted as Grade - I police constable on 16.10.1995 and further promoted as Head Constable on 24.11.1999 to 25.11.1999 respectively.

3. Therefore, as per various Government Orders, which are in vogue on completion of 10 years of service as Head Constable they become eligible to be promoted as Special Sub-Inspector [in short, 'SSI'], hence, they were given promotion as SSI on 07.11.2010.



4. Not satisfied with the same, these respondents had approached the Writ Court and filed the said writ petition stating that since they have completed totally 25 years of service from their enlistment, based on which alone by applying the deemed promotion they should have been given promotion as SSI well in advance i.e., prior to 07.11.2010. This plea raised by them was accepted and allowed by the learned Judge through the impugned order dated 10.01.2013.

5. Whether the respondents are entitled to get such a promotion by applying the theory of deemed promotion is no more *res-integra* in view of the two Division Bench Judgments conflicting with each other having been resolved by a Full Bench Judgment of this Court and in this context, a similar order passed by the another learned Judge of the Writ Court having been considered a batch of writ appeals filed by the Government were allowed. Following the same, today we have allowed two writ appeals in W.A.Nos.1705 of 2019 & 1746 of 2018, where we have passed the following order:

“ 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:*

*“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***



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*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. “*

In view of the above, this appeal is also entitled to succeed, hence
this appeal is allowed. No costs. Connected miscellaneous petition is
closed.

**(R.S.K.,J.) (K.B., J.)
24.07.2023**

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

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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

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