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Writ Appeal Nos.1705 of 2019 & 1746 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.07.2023

CORAM

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

**Writ Appeal Nos.1705 of 2019 & 1746 of 2018
and C.M.P.Nos.13970 of 2018, 11398 and 11402 of 2019**

W.A.No.1705 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 Commissioner of Police,
Egmore, Chennai – 08.

... Appellants/ Respondents

Vs

1. Jeevakumar (SSI)

2. Kanagasabapathy (SSI)

3. S.Dennis (SSI)

4. M.Albert (SSI)

... Respondents

W.A.No.1746 of 2018

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



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

3. The Superintendent of Police,
Udakamandalam,
Nilgiris District.

... Appellants

Vs.

1.K.Yoganathan(Rtd.)

...Respondent

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent Act, to set aside the order dated 31.10.2014 made in W.P.No.18554 of 2012 and W.P.No.7582 of 2013.

For Appellants : Mr.K.V.Sajeev Kumar
[in both W.As.] Special Government Pleader

For Respondents : No appearance

JUDGMENT

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

Since these intra-court appeals are directed against the common order passed by the Writ Court dated 31.10.2014 in W.P.Nos.18554 of 2012 and 7582 of 2013, these writ appeals were heard together and are disposed of by this common order.



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2. The respondents/employees were initially enlisted as Police constable and subsequently got promotion.

3. Insofar as W.A.No.1746 of 2018 is concerned, the respondent/employee was promoted as Grade II – Police Constable on 15.12.2003 and Head Constable on 15.12.2008 and thereafter, he retired from service on his superannuation on 31.07.2011.

4. Insofar as W.A.No.1705 of 2019 is concerned, the respective employees were promoted as Head Constable in the year 2000 i.e., on 25.07.2000, thereafter, they were given further promotion as Special Sub-Inspector [in short, 'SSI'] on 01.08.2010 i.e., after completion of 10 years as Head Constable.

5. However, these employees has sought for promotion as SSI in the year 2007, as in the 2006 itself they are eligible to got promotion to the post of SSI by taking into account the 25 years of service rendered by them from their initial enlistment.



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6. Learned single Judge, who passed the order had given direction to the appellants to give promotion to them on the basis of their total service rendered by them i.e., completion of 25 years under various capacity irrespective of the fact that they have not completed 10 years as Grade- II Police Constable, 5 years as Grade -I Police Constable and 10 years as Head Constable.

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 &*



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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



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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 are hereby set aside.** No costs. Consequently, connected Miscellaneous Petitions are closed.”*



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WEB COPY 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.

(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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and
K.KUMARESH BABU.,J.

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