



W.A.(MD)Nos.1005 & 1071 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)Nos.1005 & 1071 of 2013

G.Swaminathan	... Appellant in W.A.(MD)No.1005 of 2013
Mullainathan	... Appellant in W.A.(MD)No.1071 of 2013

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Home Secretary,
Home Department, St.George Fort,
Chennai-600009.
- 2.The Director General of Police,
Kamaraj Salai, Chennai-600 004.
- 3.The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur.



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4.The Superintendent of Police,
District Superintendent Office,
Thanjavur.

... Respondents
in W.A.(MD)No.1005 of 2013

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home Department, Fort St.George,
Chennai-9.

2.The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai-600 004.

3.The Superintendent of Police,
Theni District, Theni.

4.The Accountant General (Accounts & Entitlement),
Pension Section-15, 361, Anna Salai,
Chennai-600 018.

... Respondents
in W.A.(MD)No.1071 of 2013

COMMON PRAYER: Appeals filed under Clause 15 of Letters Patent, praying this Court to set aside the orders dated 22.04.2013 and 18.04.2013 made in W.P.(MD)Nos.4303 of 2013 and 6380 of 2013 respectively on the file of this Court.



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For Appellant : Mr.R.Venkatesan
For Respondents : Mr.A.K.Manikkam,
Special Government Pleader
(in W.A.(MD)No.1005 of 2013)
For Appellant : No Appearance
For R1 to R3 : Mr.A.K.Manikkam,
Special Government Pleader
For R4 : Mr.P.Gunasekaran
(in W.A.(MD)No.1071 of 2013)

COMMON JUDGMENT

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

These two Writ Appeals have been directed against the orders passed by the Writ Court in W.P.(MD)Nos.4303 of 2013, dated 22.04.2013 and in W.P.(MD)No.6380 of 2013, dated 18.04.2013.

2.The said Writ Petitions were disposed of along with the connected Writ Petitions in two separate orders by the Writ Court as stated supra.



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3. Before the Writ Court the plea raised by the appellants / petitioners was that they retired as Head Constables and they should have been given promotion as Grade-I Constable in time. Had it been given to them in time after completion of required numbers of years of service, subsequently, as a sequel, they would have been given promotion to the post of Special Sub Inspector of Police. Because all these promotions were not considered and granted, they retired as Head Constable on superannuation. Therefore, they have approached this Court by filing the Writ Petitions, seeking a direction to the respondents to consider the candidature of these appellants / petitioners for promotion not only for the post of Grade I Constable, subsequently, Head Constable and consequently, Special Sub Inspector of Police.

4. The said plea raised by the respective appellants / petitioners having been considered, was rejected through the impugned orders by the learned Single Judge, where after having taken note of the admitted fact that as per the rule, since the incumbents in the post of Head Constable should have completed 10 years for the purpose of getting promotion to the post of



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Special Sub Inspector of Police and admittedly, none of these appellants / petitioners have completed the said qualifying service, it was decided that the question of giving them promotion does not arise and in this context, having taken note of the relevant Government Orders and the rules also, the learned Single Judge has rejected the respective pleas raised by the appellants / petitioners herein along with other similarly placed persons.

5. We have gone through the said orders passed by the learned Single Judge, which are impugned in both the Writ Appeals and heard the learned counsel appearing for the appellant in W.A.(MD)No.1005 of 2013, who would submit that, it is not a mere promotion to the post of Special Sub Inspector of Police as sought for by these petitioners but also earlier promotion to the feeder category, namely, from Grade II Police Constable to Grade I Police Constable, from Grade I Police Constable to Head Constable and from Head Constable to Special Sub Inspector of Police. For all these promotions, the writ petitioners were entitled to since the said reason assigned by the learned Single Judge in rejecting the plea may not be justified, he contended.



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6.However, the learned Special Government Pleader appearing for the official respondents would submit that insofar as the promotion in each and every stage ie., from Grade II Police Constable to Grade I Police Constable, from Grade I Police Constable to Head Constable and thereafter, Special Sub Inspector of Police is concerned, for each and every compartment, the qualifying service as has been prescribed in the rule should have been completed by the incumbent and also it is not an automatic one. Based on the mere completion of the service such promotion in promotional post would not be considered. Therefore, the appellants /petitioners having served for long years at various capacity and retired from service, cannot turn around and seek for such promotion, for which they are not entitled to. Hence, the final promotion sought for from the Post of Head Constable to Special Sub Inspector of Police also has to face the same fate, since admittedly they have not completed the qualifying service of 10 years as Head Constable for getting such promotion of Special Sub Inspector of Police. Therefore, the said reason given by the learned Single Judge, rejecting the plea of the writ petitioners is to be sustained, he contended.



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7.We have considered the said submissions made by the learned counsel for both sides and perused the materials available on record.

8.In fact, the issue as to whether it is an automatic promotion after completion of the particular years of service in the feeder category to the next promoted category has already been referred to the Full Bench of this Court in the matter of *State of Tamil Nadu and others Vs. C.Srinivasan*, reported in **2022 (1) CTC 833** where the Full Bench of this Court, by order dated 04.02.2022 has held that, the promotion to the next level cannot be granted as automatic and the guidelines fixed under the relevant Government Orders should be fulfilled by the incumbent to seek for such promotion. The Full Bench of this Court has overruled the Judgment of the Division Bench in the matter of the *Government of Tamil Nadu rep. by its Home Secretary and others vs. V.Samy and others* in W.A.(MD)1506 of 2011 etc batch., dated 17.06.2013. When that being the position, the appellants / petitioners cannot take any shelter under the Sami's case referred to above as the issue is fully covered by the Full Bench of this Court. The reason given by the learned Single Judge in rejecting the plea of the appellants through the respective impugned orders is fully fortified by



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virtue of these judgments. Therefore, we have no reason to interfere with the same. Accordingly, these Writ Appeals fail and are dismissed. No costs.

(R.S.K., J.) & (K.K.R.K, J.)

14.03.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

MYR

To

1.The Home Secretary,

Government of Tamil Nadu,

Home Department, St.George Fort,

Chennai-600009.

2.The Director General of Police,

Kamaraj Salai, Chennai-600 004.

3.The Deputy Inspector General of Police,

Thanjavur Range, Thanjavur.

4.The Superintendent of Police,

District Superintendent Office,

Thanjavur.

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5.The Superintendent of Police,
Theni District, Theni.



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