



W.A.(MD)No.948 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2023

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.948 of 2015
and MP(MD).No.2 of 2015

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

2.The Director General of Police (L&O)
Kamarajar Salai
Mylapore, Chennai 600 004

3.The Deputy Inspector General of Police
Special Branch Crime Investigation Division
Kamarajar Salai, Mylapore, Chennai - 4

4.The Superintendent of Police
Special Branch CID, Kamarajar Salai,
Mylapore, Chennai-4.

...Appellants

/Vs./

V.Pandiyarajan

...Respondent

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W.A.(MD)No.948 of 2015

PRAYER:- Writ Appeal - filed under Section 15 of the Letters Patent Act, to allow this writ appeal by setting aside the common order dated 28.11.2013 made in W.P(MD).No.17308 of 2013 on the file of this Court.

For Appellants : Mr.S.Shaji Bino
Special Government Pleader

For Respondent : Mr.T.Arun Ganesh
For M/s.M.Thirunavukkarasu

JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

The State has filed this writ appeal challenging an order of the Writ Court passed in a batch of matter including W.P(MD).No.17308 of 2013 dated 28.11.2013.

2.The respondent counsel has filed a memo to the effect that the writ petitioner/sole respondent had passed away on 28.10.2017 leaving behind only his wife as legal heir and no issues out of their wedlock. His only request is that the factum of demise be recorded by taking this memo on record.

3.As far as the issue in question is concerned, it is covered by the Hon'ble Full Bench of this Court in the case of *State of Tamil Nadu*



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Vs. C.Srinivasan dated 04.02.2022. The issues framed for consideration of the Full Bench are as follows:

“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



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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”

4.The Hon'ble Full Bench has held that the decision of *V.Samy* case did not lay down the law correctly and has upheld the law as laid down in the case of *V.Ramachandran*. In light of the decision to the effect 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 claimed only on completion of the qualifying service in each level/rank as prescribed in the relevant Government orders, this State Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

**[A.S.M.J.,] & [R.V.J.,]
21.08.2023**

NCC :Yes/No
Index :Yes/No
Internet :Yes
msa



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