



W.P(MD)No.18761 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2023

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P(MD)No.18761 of 2016

- 1.M.Vellaichamy
- 2.A.Subbaiah
- 3.P.Alamuthu
- 4.S.Alagirisamy (Rtd Head Warder)
- 5.E.Mahadevan (Rtd Head Warder)

... Petitioners

Vs

- 1.The Government of Tamil Nadu,
Rep. By its Secretary to Home Department,
Fort St.George,
Chennai – 600 009.
- 2.The Commissioner,
Welfare of Differently Abled Persons Department,
Jawaharlal Nehru Road,
K.K.Nagar, Chennai - 78.
- 3.The Executive Officer,
Government Rehabilitation Home,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in his proceedings Se.Mu.Na.No.277/MaENir 1/2016 and quash the same and consequently direct the 2nd respondent to revise and regularize the service



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seniority and give the further promotion of next cadre as notionally with monetary benefits to the petitioner.

For Petitioners : Mr.P.Thangam
For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The case of the petitioners is that they should have been made as Head Constable on completion of 5 years of service in the post of Constable after entry into the Department. This issue had already been held against the writ petitioners by the Hon'ble Full Bench in the decision reported in **2022-1-L.W.984 (The State of Tamil Nadu & Others Vs C.Srinivasan)**. Paragraph 42 of the decision of the Hon'ble Full Bench is 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



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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”.

3. The learned counsel appearing for the petitioners points out that the decision rendered in V.Ramachandran’s case is the subject matter of SLP No.6980-6996/2018. The Hon'ble Apex Court is now seized of the matter.

4. Be that as it may, as on date the decision of the Hon'ble Full



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Bench is holding the field. Respectfully following the said decision,

I dismiss the writ petition. I make it clear that in the event of SLP in V.Ramachandran's case being allowed and if any benefit is granted, the petitioners are at liberty to approach the competent authority for redressal of his grievance. The competent Authority is obliged to apply the decision and extend the benefit if such occasion arises. It is needless to mention that the competent authority will extend such benefit only if the petitioners' case also falls within its scope and limits. This writ petition is dismissed with the aforesaid liberty and direction. No costs.

12.07.2023

Index : Yes / No
Internet : Yes/ No
CM

To

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BATTU DEVANAND, J.



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