



W.P.No.24599 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.24599 of 2012

P.Rathinasamy

...Petitioner

-Vs-

1.The State Rep by its
Secretary (Home Department),
Secretariat,
Saint George Fort,
Chennai – 600 019.

2.The Director General of Police,
Chief Office,
Chennai – 600 004.

3.The Superintendent of Police,
District Police Office,
Ariyalur District.

4.The Deputy Inspector General of Police,
Trichy Circle,
Trichy.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus call for records of the case, and after perusing the same and quash



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the order of the 3rd respondent Na.Ka.No.A1/6237/2011 dated 25.05.2012 and directing the respondents to give a notional promotion to the petitioner, his Grade I Police from 13.08.1988 and Head Constable Police, Special Grade from 13.08.1993 and Special Sub-Inspector of Police from 01.09.2003 retrospectively with all other consequential benefits to the petitioner and pass further orders.

For Petitioner : Mr.K.Srinivasan

For Respondents : Mr.D.Gopal
Government Advocate

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus to quash the order of the 3rd respondent in Na.Ka.No.A1/6237/2011 dated 25.05.2012, and directing the respondents to give a notional promotion to the petitioner, Grade I Police from 13.08.1988, Head Constable Police, Special Grade from 13.08.1993 and Special Sub-Inspector of Police from 01.09.2003 retrospectively, with all other consequential benefits to the petitioner.

2. The case of the petitioner is that he joined as Police Constable in the Tamil Nadu Police Service on 13.08.1978. The respondents had to give a promotion to the petitioner as Grade-I Police Constable on 13.08.1988. But he was promoted only in the year 1993 as Head Constable within 15 years of



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completing his service. It is stated that he was given the Head Constable promotion belatedly on 19.12.1999 after completing 21 years of service.

Whereas, the respondents gave the promotion to one V.Durai, who also belonged to the petitioner's batch, on 24.11.1999.

3. Learned counsel appearing for the petitioner would submit that the petitioner should have been given promotion as Special Sub-Inspector of Police on 01.09.2003. After completing 25 years, the respondents denied the promotion to the petitioner in time and gave the promotion of Special Sub-Inspector of Police to the petitioner only at the belated stage on 07.01.2010, after 32 years of service. Whereas similarly placed person by name, V.Durai was given the post of Special Sub-Inspector of Police after completing 25 years of service on 18.12.2003. But the same was denied to the petitioner, which amounts to discrimination.

4. Learned counsel would further submit that the petitioner has made several representations to the respondents while in service, but the respondents did not consider them. Finally, he made a representation on 24.12.2011, and the same was not considered by the respondents. Hence, he filed the present writ petition.



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5. Per contra, the learned Government Advocate appearing for the respondents submitted that in a similar matter, the Hon'ble Division Bench of this Court in W.A.(MD)No.2039 of 2021 by judgment dated 29.09.2022, has allowed the writ appeal filed by the Department against the order passed by the learned Single Judge directing the respondents to grant deemed upgradation or promotion to the writ petitioner to the post of Special Sub-Inspector of Police on completion of 25 years of service, irrespective of his transfer to another district, and to pay consequential benefits to the petitioner.

6. Heard both sides and perused the materials placed on record.

7. In the case on hand, the prayer of the writ petitioner is for the promotion to the post of Special Sub-Inspector of Police on completion of 25 years of service since the same issue has already been decided by the Hon'ble Division Bench of this Court as stated supra, and the relevant portion of the judgment is extracted hereunder for better understanding and appreciation.

“2. Heard the learned counsel appearing for both sides, who jointly submitted that the issue involved herein is covered by a decision of the Full Bench rendered in W.A.No.3748 of 2019 and Rev.(MD)No.99 of 2014 on 04.02.2022, in the case of State of Tamil Nadu and others v. C.Srinivasan, wherein, it was categorically held that 'there is no question of deemed



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upgradation or deemed promotion and the benefit can be extended only on completion of qualifying service in each level/rank'; and therefore, the writ appeal will have to be allowed by setting aside the order impugned herein.

3. On a perusal of the aforesaid judgment of the Full Bench, it could be seen that taking note of the conflicting judgments of co-equal benches to the effect that the later Division Bench in the Principal Secretary to Government v. V.Ramachandran and others in Review Application Nos.70 to 79 etc. of 2015 and batch, through judgment dated 22.03.2017, had disagreed with the earlier judgment of the Division Bench in the Government of Tamil Nadu represented by Home Secretary v. V.Samy and others in WA.(MD)No.1506 of 2011 etc. batch through judgment dated 17.06.2013, the First Bench of this court referred those writ appeal and review application viz., WA No.3748 of 2019 and Rev.(MD)No.99 of 2014 to the Full Bench for an authoritative pronouncement. Accordingly, the Full Bench answered the questions framed therein, through order dated 04.02.2022, the relevant passage of which can be usefully extracted below:

“38. A careful reading of the Government orders clearly brings out the fact that there is no scope for any deemed upgradation. The G.Os. makes it abundantly clear that the concerned Police Constable or Head Constable, as the case may be, should have held the relevant post for a fixed period of time in order to claim for upgradation. If the police personnel were aggrieved by such a stipulation, they ought to have challenged the Government Orders. No one has chosen to challenge the G.Os. and an attempt is being made to twist the G.Os. to suit their requirement. This Court has to necessarily understand the G.Os. in the plain language used in those G.Os. and see if the concerned police personnel is satisfying the requirement. When a benefit is conferred, the requirements to get such a benefit must be satisfied. There is no scope for a deemed satisfaction and what is expected is the actual satisfaction of the requirements. The concerned police personnel want these G.Os. to be implemented in such a way that upon completing a fixed period namely 25 years of overall service, they would get upgradation as Grade I Constable automatically and thereafter, as



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Head constables automatically and ultimately as SSI of Police also automatically. There is no indication in the G.Os. for such automatic or deemed upgradation.

39. The Division Bench in V. Samy case at paragraph 4 of the order has given a finding as if the actual service of 5 years (it should have been 10 years) as Head Constable is, not required for, upgradation as SSI of Police. This finding of the Division bench runs completely contrary to the mandatory requirement found in G.O.Ms. No. 937, dated 21.7.1998 - At paragraph 4 of the concerned G.O., completion of, 10 years service as Head Constable is made mandatory, to be considered for upgradation to the post of SSI of Police. In view of the same, the finding given by the Division Bench in V. Samy case which formed the basis for granting the remedy, is not correct.

40. The finding of the later Division Bench in V. Ramachandran case to the effect that 10 years of qualifying service in the rank of Head Constable out of the total service of 25 years to be considered for the upgradation to the post of SSI of Police is the correct view.

41. For the sake of clarity, we hold that the benefit of upgradation to the next level of promotion can be granted only by taking into account the completion of the qualifying service in each level of rank as prescribed in the above G.Os. There is no scope for any deemed upgradation or deemed promotion to the next level/rank and such an interpretation of the G.Os. will cause violence to the plain language that has been used in those G.Os. Every upgradation involves financial implications and the sanction is accorded by the Finance Department as per the terms of the G.O. by anticipating the exact increase in the expenditure by virtue of the upgradation/promotion. If such deemed upgradation or deemed promotion is read into the G.Os., it will not only go beyond the scope of G.Os., but also will end up in granting the benefit to those persons who are not covered under the Government order. The direct consequence will be that there will be a huge outflow of expenditure than what was expected through



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the beneficial scheme and it will put a lot of strain in the State's exchequer.

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 dealt with the Government orders in its proper perspective and the judgment in V.Samy case is hereby overruled.”

4. In view of the authoritative Judgment pronounced by the Full Bench that the decision laid in V.Ramachandra case (supra) has been upheld, this Court is of the opinion that there is no question of deemed upgradation or deemed promotion and such benefit can necessarily be extended only on completion of the qualifying service.”

8. In view of the ratio laid down by the Hon'ble Division Bench of



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this Court, this Court is not inclined to interfere with the order passed by the
3rd respondent in Na.Ka.No.A1/6237/2011 dated 25.05.2012, and the same is
hereby confirmed.

9. In the result, the writ petition stands **dismissed**. No costs.

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cda

Index : Yes/No

Speaking/Non Speaking order

To

1.The Secretary (Home Department),
Secretariat,
Saint George Fort,
Chennai – 600 019.



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2. The Director General of Police,
Chief Office,
Chennai – 600 004.
3. The Superintendent of Police,
District Police Office,
Ariyalur District.
4. The Deputy Inspector General of Police,
Trichy Circle,
Trichy.

J.SATHYA NARAYANA PRASAD, J.

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