



W.P.Nos.6157 to 6171 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN

W.P.Nos.6157 to 6171 of 2015

W.P.No.6157 of 2015

G.Malathi  
W/o.Pattabiraman

...Petitioner

Vs

1. Government of Tamil Nadu  
Represented by Secretary to Government  
Home (Police) Department  
Secretariat  
Chennai - 600 009

2. The Director General of Police  
Tamil Nadu  
Chennai - 600 004

3. The Commissioner of Police  
Chennai City  
Chennai - 600 008

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to issue appropriate orders of revision of dates of upgradation of the petitioner as Head Constable with effect from 1.11.1991 instead of 28.02.2002 and



W.P.Nos.6157 to 6171 of 2015

Special Sub-Inspector of Police with effect from November 2001 instead of 01.06.2005 and to grant all consequential benefits and to forthwith depute the petitioner for the mandatory 9 weeks pre-promotional training for her regular promotion as Sub-Inspector of Police and to pass consequential orders promoting her as Sub-Inspector of Police and Inspector of Police, notionally from the appropriate dates.

For Petitioner : Ms.T.Subhiksha  
in all WPs

For Respondents : Mr.Stalin Abhimanyu  
in all WPs Additional Government Pleader

### **COMMON ORDER**

Since the issue raised in all the writ petitions are similar, by consent of learned counsel on both sides, all these writ petitions are taken up together and disposed of by this common order.

2. These writ petitions were filed for a direction to the respondents to issue appropriate orders of revision of dates of upgradation of the petitioners as Head Constables with effect from 01.11.1991 instead of 28.02.2002 and Special Sub-Inspector of Police with effect from



W.P.Nos.6157 to 6171 of 2015

WEB COPY

November 2001 instead of 01.06.2005 and to grant all consequential benefits and to forthwith depute the petitioners for the mandatory 9 weeks Pre-Promotional training for their regular promotion as Sub Inspector of Police and to pass consequential orders promoting them as Sub-Inspector of Police and Inspector of Police, notionally from the appropriate dates.

3. Heard Ms.T.Subhiksha, learned counsel for the petitioner and Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader for the respondents in all the writ petitions.

4. All the petitioners were appointed as constables on 18.10.1986 barring the petitioner in W.P.No.6171 of 2015, who was appointed on 19.05.1987. Thereafter, the petitioners were upgraded to the post of Head Constable on 22.07.2002 and further they have been promoted to the post of Sub-Inspectors on 01.06.2005. While so, it is the claim of the petitioners that their upgradation has to be revised and they are entitled to be upgraded to the post of Head Constable as on 01.11.1991 itself and further to the post of Sub-Inspector with effect from November 2001.



W.P.Nos.6157 to 6171 of 2015

WEB COPY

5. It is the case of the petitioners that they were appointed under the *ad hoc* Rules and after prolonged correspondences, they were given promotion as Women Head Constables in the year 2002. When the time-bound promotions have been implemented in the year 1993 for the Constables and Head Constables, by upgrading the persons who have completed 10 years as Police Constable, Grade II to Police Constable Grade I and those who have completed 5 years of service as Police Constable Grade I were upgraded as Head Constable. Head Constables who have completed 10 years of service and overall service of 25 years were upgraded as Special Sub-Inspectors of Police. In this regard, Government has issued a Government Order in G.O.Ms.No.844, Home (Police V) Department, dated 03.06.1997 and commenced the upgradation scheme in a time-bound manner.

6. It is the grievance of the petitioners that insofar as the male Police Constables are concerned, the time-bound promotions are given to them and applying the above parameters, the petitioners who have been appointed as Constables in the year 1986, ought to have been upgraded as Head Constables on 01.11.1991 itself in stead of 22.07.2002.



W.P.Nos.6157 to 6171 of 2015

WEB COPY

7. When the similar issue in respect of the Constables who were appointed in the year 1981 came up for consideration before this Court, this Court in a batch of cases i.e., W.P.No.12269 of 2022 etc., batch, by order dated 29.02.2024 rejected the claim of the petitioners therein as their claim cannot be considered after a long period and further the claim made by the petitioners therein based on G.O.(Ms) No.844, Home (Police-5) Department, dated 03.06.1997 will not be applicable to them. It is useful to extract paragraphs 6 to 8 of the said order dated 29.02.2024, which read as follows:

*"6. It is seen that the petitioners were appointed as Grade I Police Constable in the year 1981 and they were upgraded to the post of Head Constable in the years 1994 & 1996. Thereafter, they were promoted to the post of Sub Inspector of Police in the years 2004 & 2005. Thereafter, they were retired from their service during the years 2007 to 2019. The service particulars of the petitioners are as follows :-*



W.P.Nos.6157 to 6171 of 2015

WEB COPY

| S .<br>No. | W.P.No.  | Name               | Date of<br>Enlistment    | Date of<br>Head<br>Constable<br>upgrada-<br>-tion | Date of<br>Sub<br>Inspector<br>promotion | Date of<br>retirement<br>(AN) |
|------------|----------|--------------------|--------------------------|---------------------------------------------------|------------------------------------------|-------------------------------|
| 1          | 12269/22 | S.Vadivambiga      | 11.02.1981<br>as WGRI.PC | 30.10.1994                                        | 30.08.2004                               | 30.06.2019                    |
| 2          | 12285/22 | P.Dill             | 16.03.1981<br>as GRI.PC  | 09.12.1996                                        | 20.07.2005                               | 30.06.2014                    |
| 3          | 12292/22 | G.Dhana<br>lakshmi | 16.03.1981<br>as WGRI.PC | 09.12.1996                                        | 08.10.2004                               | 31.07.2015                    |
| 4          | 12311/22 | G.Karuna bai       | 11.02.1981<br>as GRI.PC  | 30.09.1994                                        | 08.10.2004                               | 31.05.2017                    |
| 5          | 12307/22 | K.Kalaiselvi       | 16.03.1981<br>as WGRI.PC | 09.12.1996                                        | 08.10.2004                               | 31.12.2016                    |
| 6          | 12299/22 | V.Subashini        | 16.03.1981<br>as WGRI.PC | 09.12.1996                                        | 08.10.2004                               | 31.03.2017                    |
| 7          | 12273/22 | C.Selvarani        | 13.02.1981<br>as WGRI.PC | 09.12.1996                                        | 20.07.2005                               | 28.02.2017                    |
| 8          | 12304/22 | S.Mythili          | 16.03.1981<br>as WGRI.PC | 09.12.1996                                        | 08.10.2004                               | 31.03.2017                    |
| 9          | 12277/22 | K.Nirmala          | 16.03.1981<br>as WGRI.PC | 09.12.1996                                        | 08.10.2004                               | 30.06.2014                    |
| 10         | 12301/22 | P.Shanthi          | 11.02.1981<br>as WGRI.PC | 09.12.1996                                        | 08.10.2004                               | 31.01.2018                    |
| 11         | 12286/22 | R.Vijaya<br>kumari | 16.03.1981<br>as WGRI.PC | 09.12.1996                                        | 08.10.2004                               | 28.02.2007                    |



W.P.Nos.6157 to 6171 of 2015

*Thus depending upon the vacancies arose in the post of Head Constable and Sub Inspector of Police, they were granted promotion.*

7. *That apart, there was no rule or particular period on which they are entitled for next upgradation. Only in the year 1997, the government passed order in G.O.(Ms.)No.844 Home (Police-5) Department, dated 03.06.1997, thereby considered time bound promotion. According to the said G.O., those who had worked as Grade-II Police Constable for the period of ten years to be promoted as Grade-I Police Constable and those who had completed five years of service as Grade-I Police Constable to be promoted to the post of Head Constable. Subsequent to the said government order, another order was also passed in G.O.Ms.No.937 Home (Police -III) Department, dated 21.07.1998, in which those who have rendered 25 years of service including ten years service as Head Constable will be promoted to the post of Special Sub Inspector.*

8. *As far as the petitioners are concerned, they were initially appointed in the year 1981 and depending upon the vacancies arose, they were upgraded to the post of Head Constable and subsequently promoted to the post of Sub Inspector of Police. Therefore, the said rule is not applicable to the petitioners. That apart, as stated supra, all the petitioners were*



W.P.Nos.6157 to 6171 of 2015

*retired even from the years 2007 to 2019. After the period of these long years, the petitioners are claiming upgradation from the year 1986 onwards. Therefore, the entire claim of the petitioners cannot be granted and all the writ petitions are devoid of merits and liable to be dismissed."*

8. Further, in another batch of cases in W.P Nos.35498 of 2019 etc., batch, this Court by order dated 15.12.2021 rejected the claim of the petitioners therein. The learned Judge, on analyzing the claim made by the petitioners therein, held that petitioners were appointed under *ad hoc* rules and found that even though G.O.Ms.No.2566, Home Department, dated 01.11.1974 was issued wherein the distinction between Grade I and Grade II Police Constables were blurred, the expression 'Grade I and II Women Police Constable' remain to be there in Categories (iii) and (iv) of Rule 3 of the Ad hoc Rules.

9. Under the *ad hoc* rules, a direct recruitment can be made only to the Women Constables Grade II and insofar as Women Police Constable Grade I, it is a promotional post from the feeder category of Women Police Constable Grade II. The learned Judge also by noting the fact that the petitioners who were appointed as Constables were only having the



W.P.Nos.6157 to 6171 of 2015

qualification as prescribed for the Grade II Police Constables and therefore, they could be equated only to the cadre of Grade II Police Constables. Therefore, the petitioners only after serving a period of 10 years in the category of Grade II Police Constables would be entitled to be upgraded as Grade I Police Constables and only 5 years thereafter i.e., on completion of 15 years, they will be entitled for upgradation to the post of Head Constables. It is useful to extract paragraph 25 to 60 of the order:

*'25. The point for consideration in these Writ Petitions is whether the petitioners who were directly appointed as Grade I Women Police Constables in the years 1981 & 1991 are entitled to have same privilege as that of the male counterparts who were serving as Grade I Police Constables at about the same time when the petitioners were appointed in these years and were given promotions notionally earlier than the petitioners?*

*26. The direct recruitment of Grade I Police Constable was introduced in the year 1972. The direct recruitment of Grade I Police Constables for Men was conducted in the years 1972 and 1974. Thereafter, there was no direct recruitment for Men for some time.*

*27. The direct recruitment of Grade I Police Constables for*



W.P.Nos.6157 to 6171 of 2015

*Women was for the first time held in 1981 and thereafter in 1986 and later 1991 under the Adhoc Rules framed by the Government on 05.12.1973.*

*28. As per the Adhoc Rules, there is no avenue for appointment of Women as Women Police Constable Grade - I directly through Direct Recruitment. The post of Women Police Constable Grade – I was a promotional post. The method of appointment prescribed under the Adhoc Rules is as under:-*

| CATEGORY |                                         | METHOD OF APPOINTMENT                                                                                                                                                                                                                                                                   |
|----------|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| i        | <b>Woman Sub Inspector</b>              | (a) By Direct Recruitment<br>(b) By Recruitment by transfer from any other service<br>(c) By promotion from the holders of the post of Woman Head Constables.<br><br>Provided that promotion shall not be more than 30% of the cadre (G.O.Ms.No.2276, Home (Pol.III) Dept. dt. 26.9.81) |
| ii       | <b>Woman Head Constables</b>            | By promotion from the category of Woman Police Constable Gr.I                                                                                                                                                                                                                           |
| iii      | <b>Woman Police Constable Grade I</b>   | <b>By promotion from the category of Women Police Constables Grade II</b>                                                                                                                                                                                                               |
| iv       | <b>Women Police Constables Grade II</b> | By direct recruitment                                                                                                                                                                                                                                                                   |



W.P.Nos.6157 to 6171 of 2015

29. There was no scope for appointing the petitioners as **Women Police Constable Grade I** directly. Thus, the appointment to the post of **Women Police Constable Grade I** was only to be by way of promotion from the category of **Women Police Constables Grade II**.

30. However, in G.O.Ms.No.2566, Home Department, dated 01.11.1974, the distinction between the **Grade I** and **Grade II** Women Police Constables was blurred. Relevant portion from G.O.Ms.No.2566, Home Department, dated 01.11.1974 is reproduced below:-

*The General and Special Rules applicable to the holders of the permanent posts in the Tamil Nadu Police Subordinate Service shall apply to the holders of the temporary posts of Women Sub Inspectors, Head Constables and Police Constables sanctioned from time to time in the Police Department, subject to the modification specified in the following rules:*

## **2. CONSTITUTION**

*The posts shall constitute a distinct category in the said class of the said service.*

31. Following qualification was prescribed for women in Rule 5 of the Notification in G.O.Ms.No.2566, Home Department, dated



W.P.Nos.6157 to 6171 of 2015

01.11.1974:-

WEB COPY

## 5. QUALIFICATIONS:

i. **AGE:** *No person shall be eligible for appointment to the post by direct recruitment unless she possesses the following age limit, namely:-*

| <u>CATEGORY</u>              | <u>QUALIFICATION</u>                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| i <b>Woman Sub Inspector</b> | <i>Must have completed 20 years of age as on 1<sup>st</sup> July of the year of recruitment</i><br><br><i>Provided that the upper age limit shall be 35 years instead of 30 years for the appointment by direct recruitment of a candidate who is a member of a Schedule Caste or a Schedule Tribe.</i><br><i>Provided also, the upper age limit shall be 49 years for appointment for promotion.</i> |
| ii <b>Woman Constables</b>   | <b>Police</b> <i>Must have completed 18 years of age and must not have completed thirty years of age.</i><br><i>Provided further that the upper age limit shall be 35 years for the appointment of a candidate who is a member of a Schedule Caste or a Schedule Tribe.</i>                                                                                                                           |

(b) Other Qualifications:- *No person shall be eligible for*



W.P.Nos.6157 to 6171 of 2015

**WEB COPY** *appointment to the post otherwise than by promotion unless she possesses the following qualifications:-*

| <b><u>CATEGORY</u></b>              | <b><u>QUALIFICATION</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><i>i Woman Sub Inspector</i></b> | <b><i>(i) Direct recruitment</i></b><br><br><i>All the candidates including candidates belonging to candidates belonging to Schedule Caste/Schedule Tribe/Backward class/Most Backward Class and Denotified Tribe shall possess degree either in Tamil or English medium of any university recognized by the U.G.C. They must also possess sound knowledge to speak, read and write in Tamil.</i><br><br><b><i>(ii) Promotion</i></b><br><br><i>Experience for a period of not less than four years as Women Head Constable</i> |
| <b><i>ii Woman Constables</i></b>   | <b><i>Police</i></b> <i>S.S.L.C. of old pattern or of the new pattern of the State</i>                                                                                                                                                                                                                                                                                                                                                                                                                                          |

*32. Even though the expressions “Grade I and Grade II” were deleted in G.O.Ms.No.2566, Home Department, dated*



W.P.Nos.6157 to 6171 of 2015

WEB COPY

*01.11.1974, anomaly still continued in as much as the expression Grade II remained to be there in the Category (iii) and (iv) of Rule 3 of Adhoc Rules.*

*33. The qualification of Grade I Women Police Constable under the Adhoc Rules is same as the qualification prescribed and applied for Men as Grade II Police Constable under the Tamil Nadu Police Subordinate Service Rules.*

*34. The petitioners were to be otherwise first recruited/appointed only as Grade II Police Constable and thereafter were to be promoted to the post of Grade I Women Police Constables and later as Head Constables but for the intervention under G.O.Ms.No.2566, Home Department, dated 01.11.1974.*

*35. It was intended to designate the direct recruitee like the petitioners as Women Police Constable as otherwise the promotional post of Women Police Constable Grade I would have remained unfilled and vacant for the first ten years under the Adhoc Rules after recruitment began in 1981 for the women.*

*36. The blurring of the distinction between the post of Grade I and Grade II Women Police Constables was made when the recruitment of women into police service was at its infancy during 1981 and 1991. The blurring of the distinction between the post of Grade I and Grade II Women Police Constable was merely to designate Women Police Constables as a separate class and was not*



WEB COPY



W.P.Nos.6157 to 6171 of 2015

*intended to confer any special advantage to them.*

*37. The qualification for appointment to the post of Grade II Police Constable was a pass in S.S.L.C (10<sup>th</sup> Standard) for men and therefore, persons like the petitioner who were appointed as Women Constables cannot be given a special advantage. In fact, conferring earlier promotion notionally to the petitioner would result in unfair advantage to them as compared to their male counterparts.*

*38. G.O.Ms.No.937, Home (Police III) Department, dated 21.07.1998 clarified that a Police Constable must have completed about 25 years of service including 10 years of service as a Head Constable to be promoted as a Special Sub Inspector as detailed below:-*

| <b>10 Years</b>              | <b>5 Years</b>              | <b>10 Years</b>       | <b>Special Sub<br/>Inspector of<br/>Police</b> |
|------------------------------|-----------------------------|-----------------------|------------------------------------------------|
| Grade II Police<br>Constable | Grade I Police<br>Constable | <b>Head Constable</b> |                                                |

*39. Only Grade I Police Constable (Men) appointed through direct recruitment in year 1974 were exempted from completion of 25 years of service when the above G.O. was issued as they had completed served 10 years of service as Head Constable but had completed 24 years service in the police department. There was a special relaxation for 1974 batch of Grade I Men Police Constables alone.*



W.P.Nos.6157 to 6171 of 2015

WEB COPY

40. *It should be also recalled that based on the announcement made by the then Hon'ble Chief Minister of the State before the Assembly Meeting held on 25.05.1998, a decision was taken to create a new post of the Special Sub Inspector of Police in the Police Department due to the lack of vacancies to promote a large number of Head Constables as Sub Inspectors of Police.*

41. *Thus, G.O.Ms.No.937, Home (Police III) Department, dated 21.07.1998 was issued. The purpose of creating the post of Special Sub Inspector of Police was to give parity in the pay scale in the post of Special Sub Inspector of Police and the Sub Inspector of Police. Thus, the recruitments made earlier were streamlined.*

42. *The petitioners who were otherwise to be appointed as Women Police Constables Grade II were merely designated as Women Police Constables. The petitioners did not possess any other additional qualifications when were also to be appointed first as **Women Police Constables** through direct recruitment either in the year 1981 and 1991 as compared to their male counterparts who were first recruited as **Grade II Police Constable** and thereafter promoted as **Grade I Police Constable**.*

43. *If at all, the petitioners who were appointed as*



W.P.Nos.6157 to 6171 of 2015

*Women Police Constables Grade through direct recruitment either in the year 1981 and 1991 can compare themselves with their male counterparts who were recruited as **Grade II Police Constable**. The age and educational qualification for both the post are same.*

*44. Merely because the Government at that point of time thought it fit to blur a distinction between the post of **Grade I and Grade II Women Police Constables** and thus directed for deletion of the word and figure “**Grade II**” shown against Women Police Constables in Rule-2 of the Adhoc Rules vide G.O.Ms.No.2566, Home Department, dated 01.11.1974 cannot be interpreted to mean that the petitioners should be given undue advantage over their male counterparts or should be treated on par with Grade I Men Police Constables who would have served 10 years as Grade II Police Constables.*

*45. The said G.O.Ms. clarified that a Police Constable would require about 25 years of service including the 10 years of service as a Head Constable to be promoted to the post of Special Sub Inspector and since there was no scope for promoting large number of Head Constable as Sub Inspectors of Police due to the lack of vacancies, the post of Special Sub Inspector of Police was being created.*

*46. Further, a male counterpart of the petitioners who*



WEB COPY



W.P.Nos.6157 to 6171 of 2015

would have joined in the years in 1981 and 1991 as **Grade II Police Constable** would have taken 25 years to be promoted as a Special Sub Inspector of Police. The following chart by way of illustration will demonstrate the same:-

| <i>Recruitment Year</i> | <i>10 Years</i>                  | <i>5 Years</i>                  | <i>10 Years</i>       | <i>Special Sub Inspector of Police</i> |
|-------------------------|----------------------------------|---------------------------------|-----------------------|----------------------------------------|
|                         | <b>Grade II Police Constable</b> | <i>Grade I Police Constable</i> | <b>Head Constable</b> |                                        |
| <i>1981</i>             | <i>1981-1990</i>                 | <b>1991-1995</b>                | <b>1996-2005</b>      | <i>2006</i>                            |
| <i>1991</i>             | <i>1991-2000</i>                 | <b>2001-2005</b>                | <b>2006-2015</b>      | <i>2016</i>                            |

47. As per the above G.O, a total of 25 years of service was must to promote a Head Constable as a Special Sub Inspector of Police. The G.O. further clarified that since the Grade I Police Constables appointed in the year 1974 through direct recruitment had not completed their 25 years of total service when the G.O. was issued though they would have completed 10 years of service as Head Constables, exemption was given to them only from the 25 years of total service while promoting as Special Sub Inspector of Police.

48. Therefore, Grade I Police Constables appointed in the year 1974 through direct recruitment were promoted as Special Sub



WEB COPY



W.P.Nos.6157 to 6171 of 2015

*Inspectors of Police without their completing 25 years of service.*

*49. Persons who were recruited under the Special Rules for Tamil Nadu Police Subordinate Service, the Tamil Nadu Special Police Subordinate Service Rules, 1978 and Adhoc Rule are to be treated on par with each other based on their qualification at the entry level and experience in the service. The qualifications to the Post of Grade II Police Constable under the respective Rules, viz. the Special Rules for Tamil Nadu Police Subordinate Service, the Tamil Nadu Special Police Subordinate Service Rules, 1978 and Adhoc Rule, are one and the same after 1978.*

*50. The petitioners who were appointed as Women Police Constables are to be treated on par with their male counterparts at the entry level post of Grade II Police Constable and not as Grade I Police Constable.*

*51. The Tamil Nadu Uniformed Services Recruitment Board (TNUSRB), which was later constituted in November, 1991 vide G.O.Ms.No.1806, Home (Ser.F) Department, dated 29.11.1991 for the recruitment of personnel for the Uniformed Services like Police, Prison and Fire and Rescue Services, has streamlined the method of direct recruitment to various posts in the above Uniformed Services.*

*52. Until about 2006, the police personnel who were appointed as Police Constables Grade I and II, after completing*



W.P.Nos.6157 to 6171 of 2015

WEB COPY

*their requisite years of service as Constables and Head Constables, had to participate in the test conducted by Range Promotion Board.*

*53. The Government of Tamil Nadu by G.O.(Ms.) No.1055, Home (Police III) Department, dated 01.11.2006 decided to scrap the Range Promotion Board as large scale of irregularities and nepotism were noticed in the tests conducted by the Range Promotion Board.*

### ORDER

*While replying to the discussion relating to the “Demand No.22- Police” on 30.08.2006 in the Legislative Assembly, the Hon’ble Chief Minister has made, among others, the following announcement:-*

29. தமிழ்நாடு காவல் துறை சார்பில் பணி செய்து வந்தவர்கள் பதவி உயர்வுக்கான தேர்வுகள், எடுத்துத் தேர்வுகள், எடுத்துத் தேர்வுகள் செய்து கொடுக்கப்பட்டு வருகிறது. உயர்வுக்கான தேர்வுகள், எடுத்துத் தேர்வுகள் செய்து கொடுக்கப்பட்டு வருகிறது. உயர்வுக்கான தேர்வுகள், எடுத்துத் தேர்வுகள் செய்து கொடுக்கப்பட்டு வருகிறது.

காவல் துறையில், உதவி ஆய்வாளர் பணிக்குக் கீழே உள்ள பதவிகளுக்கு உதவி ஆய்வாளர் பணிக்கு கீழே உள்ள பதவிகளுக்கான தேர்வுகளைப் பதவி உயர்வுக்கான தேர்வுகள் நடத்தப்படுவதில்லை. எனவே, தலைமைக் காவலர் மட்டுமே பதவி உயர்வுக்கான தேர்வுகளைத் தற்போது எடுத்தி வருகின்றனர்.

இத்தகைய போக்கு தலைமைக் காவலர் மட்டுமே அதிகாரத்தை எடுப்பதில்லை.

பணிபுரியும் மற்றும் பணிப் பதவிகளை அதிகாரமாக கொண்டு, இது பதவிகளுக்கு பதவி உயர்வு அளிப்பதைப் போன்று இயங்குகின்ற பதவி உயர்வு அளிக்க வேண்டும் என்ற கோரிக்கை தலைமைக் காவலர்களிடையே தீவிரமாக இருக்கிறது. இதை அங்கு இனி தலைமைக் காவலர் மட்டுமே உதவி ஆய்வாளர் பதவி உயர்வுக்கு நடப்பதும் தேர்வு, முறைகள் எடுத்து கொள்ளும்.



WEB COPY



W.P.Nos.6157 to 6171 of 2015

2. In pursuance of the announcement made by the Hon'ble Chief Minister, the Director-General of Police has sent necessary draft notification for amending the rule 3 (d) (iii) of the Special Rules for the Tamil Nadu Police Subordinate Service insofar as it relates to deleting of the **Range Promotion Board** tests conducted to Head Constables/Head Constables (Armed Reserve) for promotion as Sub-Inspectors of Police/Sub-Inspectors of Police (Armed Reserve).

3. The Government, after careful examination of the proposal of the Director-General of Police, have decided to accept the same. They accordingly direct that the provision relating to conduct of Range Promotion Board tests, viz., written test and viva-voce examination including drill test to Head Constables/Head Constables (Armed Reserve) for promotion as SubInspectors of Police/Sub-Inspectors of Police (Armed Reserve) in rule 3 (d) (iii) of the Special Rules for the Tamil Nadu Police Subordinate Service be deleted. Consequently, the Government direct that promotions to the Head Constables/Head Constables (Armed Reserve) as Sub-Inspectors of Police/Sub-Inspectors of Police (Armed Reserve) be granted based on seniority and service records.

4. Necessary amendments to the Special Rules for the Tamil Nadu Police Subordinate Service will be issued separately by the Government in the Home (Police.VI) Department.

54. As far as the 1991 batch Grade I Women Police Constables are concerned, they have been given promotion as Head



*Constables in the year 2003 and 2004 and thereafter, it was decided to notionally upgrade them as Head Constable with effect from the year 1999 without monetary benefits and thereafter, they were promoted as Special Sub Inspectors of Police in 2009 with monetary benefits from the date of G.O as a onetime measure and as a special case in terms of G.O.(Ms.) No.152, Home (Police III) Department, dated 25.02.2011.*

*55. Under Adhoc Rules read with Notification given in G.O.Ms.No.2566, Home Department, dated 01.11.1974, exemption was given to the General Rules inasmuch as the aforesaid Rule was announced for the first time in the year 1974 with effect from 05.09.1973.*

*56. At that point of time, there was no scope for promotion to the post of Women Police Constable Grade I and therefore, it was construed that there was no necessity to distinct between the Grade I and Grade II Police Constables as the word and figure “Grade II” were against the Women Police Constables.*

*57. Further, the appointment under Adhoc Rules as notified by G.O.Ms.No.2566, Home Department, dated 01.11.1974 was intended to create a temporary post for the Women Police Wing in the Madras City. The issue of aforesaid G.O.Ms.No.2566, Home Department, dated 01.11.1974 proceeded the issue of G.O.Ms.No.2382, Home Department, dated 05.09.1973, G.O.Ms.No.1048, Home Department, dated 27.04.1974 and Rc.No.39409/SR.2/73 of the Inspector General of Police, dated 01.11.1973 & 23.04.1974.*

*58. The qualification prescribed for the Women Police*



W.P.Nos.6157 to 6171 of 2015

*Constable which was amended by G.O.Ms.No.1203, Home (Police III) Department, 08.08.1995 was a mere pass in S.S.L.C. The petitioners were appointed with a minimum S.S.L.C. pass. Therefore, the petitioners cannot claim any advantage.*

*59. If the arguments of the learned counsel for the respective petitioners are accepted, the petitioners being appointed as Women Police Constables will be entitled to be promoted as Head Constables within 5 years and thereafter as Special Sub Inspectors / Sub Inspectors of Police within a period of next 10 years, whereas, their male counterparts would take about 25 years to be promoted as Special Sub Inspectors / Sub Inspectors of Police.*

*60. As the petitioners who were appointed as Women Police Constables through direct recruitment in the years 1981 and 1991 were promoted as Head Constables in the years 1996 & 1997 and 1999 and as Sub Inspectors of Police in the years 2003 & 2004 and 2009 respectively are concerned, they cannot claim any further benefit merely because they were recruited as Women Police Constables.*

*61. It would be fallacious to treat the petitioners as superiors to their male counterparts who were appointed as Grade II Police Constables as the appointment of the petitioners in the years 1981 and 1991 was only at the entry level with a minimum educational qualification of SSLC.*

*62. If the contention of the petitioners are accepted, an anomalous situation would arise. Following Chart demonstrates the*



W.P.Nos.6157 to 6171 of 2015

WEB COPY

position:-

| Batch                    | Head Constable | Special Sub Inspector / Sub Inspector | Inspector |
|--------------------------|----------------|---------------------------------------|-----------|
| 1981 batch Gr.I W. P.Cs. | 1986           | 1996                                  | 2006      |
| 1991 batch Gr.I W. P.Cs. | 1996           | 2006                                  | 2016      |

*63. It would confer undue advantage on the petitioners. The Government of Tamil Nadu had already considered the case of the petitioners by promoting the 1981 batch Women Police Constables as Head Constables with effect from the years 1996 & 1997 and the 1991 batch Women Police Constables as Head Constables with effect from the year 1999 and thereafter by promoting as Sub Inspector with effect from the years 2003 & 2004 and 2009 respectively. They also have been given notional benefits in terms of G.O.(Ms.) No.152, Home (Police III) Department, dated 25.02.2011."*

10. The learned counsel appearing for the petitioners very fairly submitted that the reliefs sought for by the petitioners in these writ petitions will also be squarely covered by the decision of this Court in



W.P.Nos.6157 to 6171 of 2015

the batch of writ petitions referred above.

WEB COPY

11. The learned Government Advocate by placing reliance on the Full Bench judgment of this Court dated 04.02.2022 in W.A.Nos.3748 of 2019 etc., batch [*State of Tamil Nadu Vs. C.Srinivasan*] submitted that the petitioners have preferred these writ petitions claiming for deemed upgradation and in view of the decision of the Hon'ble Full Bench, the question of deemed upgradation does not arise and only if the petitioners satisfy the required period of service in each categories, they will be entitled for the upgradation. It is useful to extract Paragraphs 35 to 42 of the said judgment, which read as follows:

*"35. The Government Orders issued from G.O.Ms. No. 844, dated 3.6.1997 upto G.O.Ms. No. 15, dated 7.1.2010, brought about a time bound upgradation scheme to the rank of Head Constable and to the post of Special Sub- Inspector of Police respectively. For those Constables who are seeking for a benefit under these G.Os, they are bound to satisfy the requirements stipulated under these G.Os. For this purpose, the amended Paragraph 4 of G.O.Ms. No 844, dated 3.6.1997 makes it very clear that only those Grade II men Police Constables who have completed 10 years of service will be promoted as Grade I Police Constables. Similarly, only those Grade I men Police Constables who have completed 5 years of service will be promoted as Head Constables. Since this process was undertaken in*



W.P.Nos.6157 to 6171 of 2015

WEB COPY

*4 phases stretching from 1997-98 upto 2000-2001, the manner in which the promotion to the post of Head Constable should be granted was provided in the said G.O. itself. The relevant tabular column has also been extracted supra.*

36. *For the first time, by virtue of G.O.Ms. No. 937, dated 21.7.1998, the post of SSI of Police was created. There is no such post that is available under the Service Rules and it was done only to motivate/encourage Head Constables who have stagnated in that post for a considerable time as exams were not conducted for them for promotion to the post of Sub-Inspector between 1985-1996 due to some administrative reasons. Hence, the focus under G.O.Ms.No. 937, dated 21.7.1998, was the stagnated Head Constables who were eligible for promotion to the post of Sub Inspector after writing the necessary examination. The G.O. made it very clear that for a person to claim for upgradation to the post of SSI of Police, 10 years of service as Head Constable was mandatory without any exception. The Head Constable who is upgraded to the post of SSI of Police will get the same pay and allowance as that of the Sub Inspector and duties will be specifically allotted to them as directed by the Director General of Police. The relevant G.Os. makes it very clear that the concerned constable should have put in 25 years of overall service out of which 10 years of service as Head Constable was made mandatory to become entitled for upgradation to the post of SSI of Police.*

37. *The above position was properly appreciated by the*



WEB COPY

*earlier Division Bench in W.A. (MD) Nos. 361,364 and 367 of 2012.*

*The effect of the GOs was applied to the petitioners therein and they were held not entitled to be promoted to the post of Head Constables from an anterior date. With due respects to the earlier Division bench which passed the order in Review Application (MD) Nos 10 to 12 of 2013, the judgment of the Division bench in W.A.(MD) Nos 361,364 and 367 of 2012 ought not to have been reviewed on two counts and they are:*

*a) By the time the Review Applications were taken up for hearing, the very same division bench had taken a contrary view in V.Samy case while passing an order on 17.6.2013 and by virtue of reviewing the order, a co-equal bench has overruled the earlier order passed by the Division Bench and*

*b) The review was allowed by relying upon the earlier orders passed in W.P.(MD) No 27036 of 2006 and W.A.(MD) No. 500 of 2008, which orders were not dealing with the scope of G.O.Ms.No. 844, dated 3.6.1997 and those orders were passed by relying upon Rule 25 (b) of the Rules. This was made clear by the earlier Division Bench while passing orders in W.A (MD).Nos. 361,364 and 367 of 2012 and inspite of the same, the very same order was used to review the earlier judgment of the Division Bench.*

*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*



W.P.Nos.6157 to 6171 of 2015

*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 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.*



WEB COPY



W.P.Nos.6157 to 6171 of 2015



W.P.Nos.6157 to 6171 of 2015

WEB COPY

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 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*



W.P.Nos.6157 to 6171 of 2015

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

12. From the above decision of the Hon'ble Full Bench, the benefit of upgradation to the next level of promotion can be given only on completion of qualifying service in each level of rank. Further, a person should have put in 25 years of service to be considered for upgradation as Special Sub-Inspector of Police out of which they should have 10 years of qualifying service in the rank of Head Constable.

13. From the above decisions, it is clear that a person appointed in the category of Grade II Police Constable or as in the present case in the



W.P.Nos.6157 to 6171 of 2015

category of women Police Constable only after completing 10 years of service, they will be eligible for upgradation to the post of Grade I Police Constable and only after completion of 15 years of service, the police personal will be entitled for upgradation to the post of Head Constable. Therefore, the claim of the petitioners that immediately on the completion of 5 years, they will be entitled for upgradation to the post of Head Constable and therefore, the upgradation granted in the year 2002 is wrong and the same has to be revised with effect from 1991 cannot be sustained.

14. In view of the above, the reliefs sought for in these writ petitions fails and accordingly, these writ petitions are dismissed. There shall be no order as to costs.

**23.10.2024**

Index:Yes

Non-speaking order

Neutral Citation : No

*gpa*



W.P.Nos.6157 to 6171 of 2015

WEB COPY To

1. The Secretary to Government  
Government of Tamil Nadu  
Home (Police) Department  
Secretariat  
Chennai - 600 009
2. The Director General of Police  
Tamil Nadu  
Chennai - 600 004
3. The Commissioner of Police  
Chennai City  
Chennai - 600 008