



W.A.(MD).No.1278 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**
and
THE HONOURABLE **MR.JUSTICE K.K.RAMAKRISHNAN**

W.A.(MD).No.1278 of 2016
and
C.M.P.(MD).No.8695 of 2016

- 1.The Government of Tamil Nadu
represented by its Secretary to Home Department,
Fort St. George,
Chennai 600 009.
- 2.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai 600 004.
- 3.The Superintendent of Police,
Theni District.

... Appellants

Vs.

- 1.G.Karuppaiya (died)
- 2.K.Saroja
- 3.K.Jeya
- 4.K.Rajamohan

Respondents 2 to 4 are impleaded as per the
order of this Court in C.M.P.(MD).No.8387 of
2017, dated 15.03.2024.

... Respondents



W.A.(MD).No.1278 of 2016

Prayer: Writ Appal is filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD).No.18329 of 2013, dated 26.11.2013.

For Appellants : Mr.A.K.Manikkam
Special Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN, J.**)

The State has filed this writ appeal against the order of the learned single Judge passed in W.P.(MD).No.18329 of 2013, dated 26.11.2013.

2. The first respondent is the petitioner in the above writ petition. The said writ petition has been filed challenging the impugned order passed by the third respondent in Na.Ka.No.A1/8022/116/2013, dated 16.07.2013 and to quash the same and consequently direct the respondents 2 and 3 to revise and regularise the service seniority and give notional promotion to the post of Inspector of Police with monetary benefits to the petitioner. The learned single Judge of this Court allowed the writ petition and set aside the impugned order with the direction to the respondents to apply the norms reiterated by this Court in the common judgment passed in W.A.(MD).Nos.1506 of 2011etc., batch



W.A.(MD).No.1278 of 2016

dated 17.06.2013, in the light of the Government Orders referred to above and to give promotion as well as seniority to the petitioners. Aggrieved over the said order, the present writ appeal has been filed by the State.

3. The learned Special Government Pleader appearing for the appellants would submit that the scheme of upgradation came into force with effect from 20.02.1993 as per G.O.(Ms).No.1681, Home (Pol.V) Department, dated 12.10.1992 and it cannot be implemented with retrospective effect. The writ petitioner had completed 10 years of service during the year 1985, whereas the upgradation scheme was introduced only during 1992-1993 vide G.O. (Ms.).No.1681, Home (Pol.V) Department, dated 12.10.1992. Hence, he prayed for allowing this writ appeal.

4. It is submitted that the writ petitioner died and his legal heirs appeared before this Court today and stated that they are receiving the pension only.

5. Heard the learned Special Government Pleader appearing for the appellants and perused the materials available on record.



W.A.(MD).No.1278 of 2016

WEB COPY

6. The Full Bench of this Court in the case of ***State of Tamil Nadu and others vs. C.Srinivasan*** in ***W.A.Nos.3748 of 2019, 1813 to 1815 of 2015, 1193 of 2016, 1246 and 1247 of 2016***, dated ***04.02.2022***, had decided that the writ petitioner cannot be upgraded as 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”.



W.A.(MD).No.1278 of 2016

WEB COPY

7. In view of the decision of the Full Bench of this Court, the writ petitioner has got no legs to stand before this Court regarding the upgradation retrospectively. Hence, this Writ Appeal is allowed and the appellants are directed to disburse the pensionary benefits and other monetary benefits if any to the respondents within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected Miscellaneous Petition is closed.

[V.B.S.,J.] [K.K.R.K.,J.]
15.03.2024

Index : Yes/No
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NCC : Yes/No

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W.A.(MD).No.1278 of 2016

V.BHAVANI SUBBAROYAN,J.
and
K.K.RAMAKRISHNAN,J.

akv

W.A.(MD).No.1278 of 2016

15.03.2024