



W.A.(MD).No.724 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.02.2024

CORAM:

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

W.A.(MD).No.724 of 2016
and
C.M.P.(MD).No.4616 of 2016

- 1.The State of Tamil Nadu
represented by its Secretary to Government,
Home Department,
Fort. St. George,
Chennai 600 009.
- 2.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai 600 004.
- 3.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.
- 4.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 5.The Accountant General,
(Accounts and Entitlement),
Pension Section -15,
361, Annasalai,
Chennai 600 018.

... Appellants

Vs.



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M.Nainar (Retired HC 721)

... Respondent

Prayer: Writ Appal is filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD).No.15784 of 2012, dated 26.02.2013.

For Appellants : Mr.A.K.Manikkam
Special Government Pleader
For Respondent : Mr.G.Thalaimutharasu

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.15784 of 2012, dated 26.02.2013.

2. The respondent is the petitioner in the above writ petition. The challenge made in the writ petition is to the order of rejection of upgradation passed by the third respondent, dated 14.09.2011. The learned single Judge of this Court allowed the writ petition. Aggrieved over the said order, the present writ appeal has been filed by the State.

3. According to the appellants, the learned single Judge has directed the appellants to consider the claim of the petitioner to upgrade him as Grade I Police Constable on 01.10.1980 and Head Constable on 01.10.1985, based on



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the G.O.(Ms.).No.844 Home (Pol.5) Department, dated 03.06.1997 and G.O.

(Ms.)No.15 Home (Pol.5) Department, dated 07.01.2010, without considering the fact that the upgradation was introduced in the Police Department only during the year 1992-1993, through the issuance of G.O.(Ms).No.1681 Home (Pol.5) Department, dated 12.10.1992. Further, the Government vide G.O. (Ms.).No.844 Home (Pol.V) Department, dated 03.07.1997, has introduced the time bound upgradation scheme. Accordingly, the Grade - II Police Constable, those who have completed ten years of service can be upgraded as Grade - I Police Constable and Grade - I Police Constable, those who have completed five years of service can be upgraded as Head Constable. The above time bound upgradation scheme introduced by the Government can be given effect only from the date of issuance of Government Order and not with retrospective effect. Further, the writ petitioner has not completed ten years of service in the category of Head Constable. Moreover, he retired on superannuation on 31.05.2006 in the post of Head Constable. As such, his name cannot be considered for upgradation as Special Sub Inspector of Police.

4. The learned counsel appearing for the respondent/writ petitioner would submit that similar matters are pending before the Hon'ble Supreme Court and his case should be considered positively.



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5. Heard the learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the respondent/writ petitioner.

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



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dealt with the Government Orders in its proper perspective and the judgment in

V.Samy case is hereby overruled”.

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 if any favourable order is passed by the Hon’ble Apex Court in a similar matter, then it is left open to the respondent/writ petitioner to proceed as per law. No costs. Consequently, the connected Miscellaneous Petition is closed.

[V.B.S.,J.] [K.K.R.K.,J.]
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Index : Yes/No

Internet : Yes/No

NCC : Yes/No

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