



W.A.(MD).No.890 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.01.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

W.A.(MD).No.890 of 2016
and
C.M.P.(MD).No.5364 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 & Entitlements),
Pension Section - 15,
361, Annasalai,
Chennai – 600 018.
- .. Appellants/Respondents



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S.Perumal

Vs.

.. Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 26.02.2013 made in W.P.(MD).No.15786 of 2012 on the file of this Court and allow this Writ Appeal.

For Appellants : Mr.P.T.Thiraviam
Government Advocate

For Respondent : Mr.G.Thalaimutharasu

JUDGMENT

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

This Writ Appeal is filed by the State being aggrieved by the order passed in W.P.(MD).No.15786 of 2012 dated 26.02.2013.

2. This is an issue which has been under consideration on various occasions before this Court as well as the Hon'ble Supreme Court and has a checkered history. To put it short, in the year 1997, due to stagnation in the cadre in the Police Department, G.O.Ms.No.844, Home (Pol-V) Department dated 03.06.1997, was issued, wherein, a career prospect promotion was



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implemented to the effect that Police Constables with ten years of service were upgraded as Grade I Police Constables and after five years of service as Grade I Police Constable, upgraded as Head Constable. A person with ten years of service as Head Constable was upgraded as Special Sub Inspector of Police. While there were conflicting judgments interpreting the said Government Order, the matter was referred to larger Bench.

3. Before that, the Writ Petition, which was preferred by S.Perumal/the respondent herein, came up for consideration and following the judgments rendered in a batch of Writ Petitions in W.P.Nos.11544 to 11550 of 2012 dated 28.06.2012, another batch of Writ Petitions of similar nature and the subsequent Government Order passed by the State in G.O.Ms.No.15, Home (Pol-V) Department, dated 07.01.2010, this Court allowed the Writ Petition by giving notional promotion to the respondent/writ petitioner as Special Sub Inspector of Police, taking note of the years of service put in by him.

4. In the present case, the respondent joined as Police Constable Grade II on 01.10.1970. He voluntarily retired from service on 31.05.2006.



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During his tenure, he was upgraded as Grade I Police Constable on 09.03.1993 and further upgraded as Head Constable on 08.01.1998.

Claiming that the respondent has put in totally 36 years of service, he sought for upgradation as Special Sub Inspector of Police on completion of his 25 years of service. This was accepted by the learned Single Judge and the Writ Petition was allowed.

5. The said order was challenged on the ground that the Government Order providing career prospects and upgradation of posts on the length of service consist of twin conditions. One, the person must have completed 25 years of service, out of which, the last 10 years of service must be as Head Constable. Whereas, in the present case, S.Perumal/the writ petitioner, had not completed 10 years of service as Head Constable and therefore, he is not entitled for upgradation as Special Sub Inspector. However, this contention was not accepted by the learned Single Judge and hence, the present Writ Appeal was preferred by the State.

6. Pending the appeal, the issue was referred to a larger Bench and the three Judges Bench of this Court, vide order dated 04.02.2022 passed in



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W.A.Nos.3748 of 2019 etc., batch, had clarified the legal position in the following terms:

"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



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its proper perspective and the judgment in V.Samy case is hereby overruled". "

7. In the light of the decision rendered by the larger Bench of this Court, this Writ Appeal is liable to be allowed. Accordingly, the impugned order passed in W.P.(MD).No.15786 of 2012 dated 26.02.2013 is quashed and the Writ Appeal is allowed.

8. The learned counsel appearing for the respondent states that pertaining to the other batch of Writ Petitions, Special Leave Petitions are pending before the Supreme Court in S.L.P.Nos.6986 to 6996 of 2018. If it is so and if any order or observation by the Supreme Court, which is contrary to the decision of the Full Bench of this Court, is rendered, then the respondent shall work out his remedy in accordance with the order passed in the pending Special Leave Petitions. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(G.J.,J.) (C.K.,J.)
04.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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