

W.P(MD)Nos.968 to 977 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 28.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.968 to 977 of 2022

W.P(MD)No.968 of 2022

Ponnappan.R

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep .By its Home Secretary,
Fort St.George,
Chennai - 9.

2.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai - 600004.

3.The Deputy Inspector General of Police,
Tirunelveli Range ,
Palayamkottai,
Tirunelveli.

4.The Superintendent of Police,
Kanyakumari District at Nagercoil.

...Respondents



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PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Na.Ka.No.A1/15265/2021 dated 25/11/2021, issued by the 4th respondent and to quash the same with the consequential direction to all respondents to provide notional promotion with all salary and pension benefits as such in the case of petitioners in WP(MD).Nos. 2888 of 2011 , 2989 of 2011 order dated 27/06/2011 and 4864 of 2011 order dated 27/04/2011.

For Petitioner : Mr.D.Saravanan
For Respondents : Mr.K.Balasubramani
Special Government Pleader

COMMON ORDER

These writ petitions have been filed by the retired police personnels as against the orders passed by the Superintendent of Police, Kanyakumari District at Nagercoil, in and by which, the petitioners' request for notional promotion with all salary and pension benefits have been rejected, in view of the decision already taken by the Division Bench of this Court in this regard.



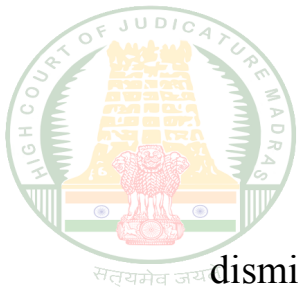
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2.Since the issue involved in all these writ petitions are one and the same, these writ petitions are heard together and disposed of by this common order.

3.The learned counsel appearing for the petitioners submits that the Government has issued G.O.Ms.No.844(Home) Pol.V Department, dated 03.06.1997, to provide promotion as Grade I constable, who has completed 10 years of service and Head Constable, who has completed 15 years of service in the Department. Another Government order has also been issued in G.O.Ms.No.15, dated 07.01.2010, wherein, powers have been delegated to promote the police constables as SSI, who has completed 25 years of service.

4.The learned counsel, by relying upon a batch of writ petitions in W.P.Nos.3552 of 2017 etc., dated 23.10.2019 submits that those writ petitions have been filed by the similarly placed persons as that of petitioners and though the Division Bench has



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dismissed the writ petitions, has granted liberty to the petitioners therein to file review applications, on the outcome of the Special Leave Application/Review Application, in this issue and the relevant portion is extracted as under:-

4. Considering the very same issue, the Division Bench of this Court in W.A.Nos.47 to 51 of 2014 etc., batch, by an order dated 30.08.2019, has held that the Government orders concerned are not to be applied with retrospective operation. Further, the Division Bench has held as follows:

“11.The Government Orders must contain a clear indication for giving it retrospective operation. It would not be possible to give an interpretation to the Government Orders by treating it as one giving retrospective effect, unless there is a clear recital with regard to such retrospectivity. There is no question of bringing the theory of deemed retrospective operation of a Government Order, when the relevant order is crystal clear that the intention is only to give effect prospectively. The interpretative process could not be undertaken to give a different meaning or effect to the Government Orders.

12.The Hon'ble Supreme Court in Union of India Vs. Shankar Law Soni & another (2010(3) Scale 774), observed that a decision to grant a certain concession or a certain benefit and the conditions for their grant are a matter for the administrators alone and the Court should not interfere in the matter on the premise that



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it was of the opinion that some of the conditions imposed were not justified.

13.The policemen are claiming promotion as Grade-I Police Constable, Head Constable and Special Sub Inspector of Police immediately on completion of 10, 15 and 25 years of service. There was no indication in any of the Government Orders, more particularly, in G.O.Ms.No.15, Home (Pol.V) Department dated 07.01.2010 to claim deemed upgradation or retrospective upgradation. The policemen are interpreting the Government Orders as if there was a decision in their favour to grant retrospective upgradation by counting the entire service, right from the initial entry. The Government made it very clear in the relevant orders referred to above that in order to claim upgradation as Special Sub Inspector of Police, policemen must have completed 10 years of service in the rank of Head Constable. The policemen wanted the Government Orders to be interpreted in such a way that upon completing a fixed period, they would get upgradation as Grade-I Constable automatically and thereafter, as Head Constable and ultimately as Special Sub Inspector of Police. No such indication is found in any of the Government Orders extracted above. We are therefore of the view that the appellants are correct in their contention that the writ Court committed a fundamental error while interpreting the Government Orders and the same resulted in allowing the writ petitions filed by the respondents.



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14. We fully concur with the views expressed by the Madurai Bench of this Court in its order in Review Application (MD) Nos.70 of 2015 etc batch.

15. The intra Court appeals filed by the State are allowed. The connected appeals filed by the policemen are dismissed. No costs.”

5. Challenging the said order, some of the writ petitioners have filed Special Leave petitions in S.L.P.Nos.6980 to 6996 of 2018, which are pending consideration before the Apex Court. However, the review applications filed by some of the petitioners are yet to be taken on file.

6. All the learned counsels appearing for the respective parties are in agreement that the aforesaid judgment would govern these cases also. However, the learned counsels appearing for the petitioners submitted that liberty may be given to file review applications, if the Special Leave Petitions, which were filed on the similar issue, are allowed in favour of the petitioners therein. A further request has been made that in the event, the review applications being allowed involving the same issue, the petitioners will have to be given an opportunity to file review applications.

7. We find that the submissions made by the learned counsel appearing for the petitioners merit acceptance while holding that the relief sought for in all these writ petitions is



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covered by the order of the Division Bench of this Court in W.A.Nos.47 to 51 of 2014 etc., batch referred supra. Accordingly, while dismissing the writ petitions, we make it clear that subject to the result of either Special Leave Petitions or Review Applications, the petitioners are at liberty to file Review Applications before this Court within a period of eight weeks from the date of receipt of copy of such an order. If those applications are filed within the aforesaid time, the Registry is directed to number them without insisting the application for condonation of delay.

5.The learned Special Government Pleader appearing for the respondents submits that as a subsequent development, the Larger Bench of this Court in a batch of writ appeals in W.A.No. 3748 of 2019 etc., dated 04.02.2022 have decided the issue and the relevant portion of the above order is extracted as under:-

"These Writ Appeals have been preferred by the Government against various judgments, granting upgradation as Special Sub Inspector of Police on completion of 25 years of service, irrespective of the period of service in the light of the judgment of this Court in the case of The Government of Tamil Nadu, Rep. by Home Secretary vs. V.Samy and others [W.A.(MD) Nos.1506 of 2011, etc., batch] dated 17.06.2013. However, in yet another case in The Principal Secretary to Government vs. V.Ramachandran and



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others [Rev.A.Nos.79 to 79 of 2015, etc., batch] dated 22.03.2017, the Division Bench of this Court took a contrary view to the effect that the claim of deemed promotion cannot be accepted, by further observing that the Bench could not “blindfold itself by the earlier Division Bench judgment to allow the claim of the Writ Petitioners therein”.

2. In view of the conflict judgments rendered by this Court, the First Bench of this Court, vide judgment dated 20.12.2019, referred the issue to a Larger Bench to decide as to which judgment has laid down the correct law in respect of grant of upgradation in the Police Department.

3. When these batch of Writ Appeals are taken up for hearing, Mrs.Mythreye Chandru, learned Special Government Pleader appearing for the Government submitted that the Larger Bench of this Court, by an order dated 04.02.2022, has already answered the questions framed by the First Bench of this Court, which reads as follows:

“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



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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. By relying on the aforesaid answer to the reference, Mrs.Mythreye Chandru, learned Special Government Pleader submitted that the law is now well settled and the Larger Bench upheld the proposition laid down by this Court in V.Ramachandran case (supra). She further submitted that in terms of the answer, there is no question of deemed upgradation or deemed promotion and the benefit can be extended only on completion of qualifying service in each level/rank. Hence, the orders of the learned Single Judge, granting deemed upgradation/promotion, which are the subject matter of these



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Writ Appeals need interference by this Court and are liable to be set aside.

5. Learned counsel for the Writ Petitioners fairly conceded that the answer given by the Larger Bench will not inure to the benefit of the Writ Petitioners and they have no case in these Writ Appeals.

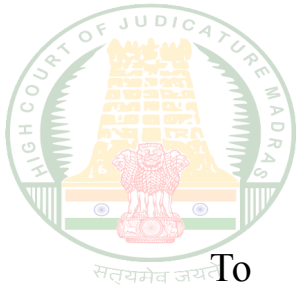
6. In view of the above submissions and taking into consideration the ratio laid down by the Larger Bench of this Court, these Writ Appeals are allowed and the respective orders of the learned Single Judges are hereby set aside. No costs. Consequently, connected Miscellaneous Petitions are closed."

6. In view of the subsequent development as stated above, these writ petitions are dismissed. No costs.

28.01.2025

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NCC:Yes/No
Index:Yes/No
Internet:Yes
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B.PUGALENDHI, J.

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Common Order made in
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