

W.P(MD)Nos.1438 to 1443 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.1438 to 1443 of 2022

W.P(MD)No.1438 of 2022:-

E.David

... 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 Mandamus, directing the 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 and 4864 of 2011, on the file of this Court, vide his representation, dated 26.02.2021.

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

COMMON ORDER

The writ petitioners are the retired police personnels. They have filed these writ petitions in the year 2022, seeking notional promotion with all salary and pension benefits as that of the 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, by considering his representation, dated 26.02.2021.



W.P(MD)Nos.1438 to 1443 of 2022

WEB COPY

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. Therefore, the petitioners are entitled for notional promotion with all salary and pension benefits.

4.Today(29.01.2025), when these writ petitions are taken up for hearing, it is brought to the notice of this Court that this issue



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WEB COPY

has already been decided in a batch of writ appeals in W.A.No.3748 of 2019 etc., dated 04.02.2022 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 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



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W.P(MD)Nos.1438 to 1443 of 2022

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 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



W.P(MD)Nos.1438 to 1443 of 2022

V.Samy case is hereby overruled."

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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 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."*



W.P(MD)Nos.1438 to 1443 of 2022

5.In view of the subsequent development as stated

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above, these writ petitions are dismissed. No costs.

28.01.2025

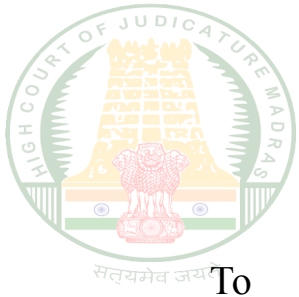
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NCC:Yes/No

Index:Yes/No

Internet:Yes

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W.P(MD)Nos.1438 to 1443 of 2022

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W.P(MD)Nos.1438 to 1443 of 2022

B.PUGALENDHI, J.

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Common Order made in
W.P(MD)Nos.1438 to 1443 of 2022

28.01.2025
(2/2)