

WP(MD)Nos.13938, 13939, 13940 of 2021, 1262 to 1270,
1410 to 1435 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

**WP(MD)Nos.13938, 13939, 13940 of 2021, 1262 to 1270,
1410 to 1435 of 2022
of 2021**

WMP(MD)Nos.10084 of 2021, 2715 of 2022

in WP(MD)No.13938 of 2021

V.Kalaiyaran

... Petitioner

Vs

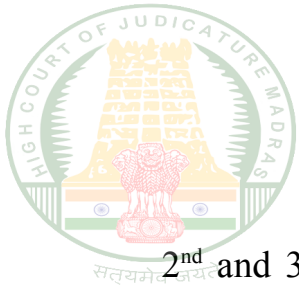
1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

2.The Deputy Inspector General of Police,
Thanjavur Range,
Thanjavur,
Thanjavur District.

3.The Superintendent of Police,
Thanjavur District,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records on the file of the



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2nd and 3rd respondents in connection with the impugned orders passed by them vide their proceedings in C.No.A1/5817/2017, dated 21.06.2018 and in Na.Ka.No.P2/29579/2020, dated 16.03.2020 respectively and quash the both as illegal and arbitrary and consequently direct the respondents to provide up-gradation / notional promotion in accordance with GO.Ms.(MS)No.15, Home (Pol.V) Department dated 07.01.2010 and thereby direct them to pay arrears of salary and enhanced pensionary benefits within the time limit that may be stipulated by this Court.

in WP(MD)No.13939 of 2021

S.Kanagaraj

... Petitioner

VS

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

2.The Deputy Inspector General of Police,
Trichy Range,
Trichy.

3.The Superintendent of Police,
Trichy District,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records on the file of the 3rd respondent in connection with the impugned order passed by him vide him proceedings in Na.Ka.No.P1/28580/2019, dated 19.12.2019 and quash the same as



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illegal and arbitrary and consequently direct the respondents to provide up-gradation / notional promotion in accordance with G.O(MS)No.15, Home (Pol.V) Department, dated 07.01.2010 and thereby direct them to pay arrears of salary and enhanced pensionary benefits within the time limit that may be stipulated by this Court.

in WP(MD)No.13940 of 2021

F.Gnanavaram

... Petitioner

Vs.

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

2.The Deputy Inspector General of Police,
Trichy Range,
Trichy.

3.The Superintendent of Police,
Trichy District,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 1st respondent to provide up-gradation / notional promotion in accordance with G.O(MS)No.15, Home (Pol.V) Department, dated 07.01.2010 and thereby direct them to pay arrears of salary and enhanced pensionary benefits based on the petitioner's representation dated 26.08.2019 within the time limit that may be stipulated by this Court.



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For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.G.V.Vairam Santhosh,

Additional Government Pleader

in the above 3 petitions

E.Raveendran	... Petitioner in WP(MD)No.1262 of 2022
N.Baskaran	... Petitioner in WP(MD)No.1263 of 2022
C.Olimuthu	... Petitioner in WP(MD)No.1264 of 2022
R.Arulappan	... Petitioner in WP(MD)No.1265 of 2022
M.Gnanamuthu	... Petitioner in WP(MD)No.1266 of 2022
P.Daniel	... Petitioner in WP(MD)No.1267 of 2022
T.Maria Vargheese	... Petitioner in WP(MD)No.1268 of 2022
Innocent	... Petitioner in WP(MD)No.1269 of 2022
C.Charles	... Petitioner in WP(MD)No.1270 of 2022
M.S.Devaraj	... Petitioner in WP(MD)No.1410 of 2022
K.Parasuraman	... Petitioner in WP(MD)No.1411 of 2022
S.Mariadhason	... Petitioner in WP(MD)No.1412 of 2022
R.Viswambaran	... Petitioner in WP(MD)No.1413 of 2022
T.Dharmalingam	... Petitioner in WP(MD)No.1414 of 2022
P.Radhakrishnan	... Petitioner in WP(MD)No.1415 of 2022
C.Suresh	... Petitioner in WP(MD)No.1416 of 2022
K.Viswanathan Nair	... Petitioner in WP(MD)No.1417 of 2022
M.Nesamony	... Petitioner in WP(MD)No.1418 of 2022
A.Sundararaj	... Petitioner in WP(MD)No.1419 of 2022
D.Jeyadhas	... Petitioner in WP(MD)No.1420 of 2022



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S.Krishnanandam

C.Dharmaraj

S.Yesudhasan

S.Francis

B.Balasubramaniam

Swamy Nadar

S.Mariyarathinam

P.Thomasraj

R.Sadasivam

T.Vijaya Selvan

S.Prabakaran

L.Justus

M.Samraj

R.Soundarraaj

V.Saseedharan Thampi

... Petitioner in WP(MD)No.1421 of 2022

... Petitioner in WP(MD)No.1422 of 2022

... Petitioner in WP(MD)No.1423 of 2022

... Petitioner in WP(MD)No.1424 of 2022

... Petitioner in WP(MD)No.1425 of 2022

... Petitioner in WP(MD)No.1426 of 2022

... Petitioner in WP(MD)No.1427 of 2022

... Petitioner in WP(MD)No.1428 of 2022

... Petitioner in WP(MD)No.1429 of 2022

... Petitioner in WP(MD)No.1430 of 2022

... Petitioner in WP(MD)No.1431 of 2022

... Petitioner in WP(MD)No.1432 of 2022

... Petitioner in WP(MD)No.1433 of 2022

... Petitioner in WP(MD)No.1434 of 2022

... Petitioner in WP(MD)No.1435 of 2022

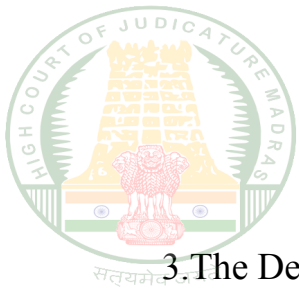
Vs.

1.The State of Tamil Nadu,

Represented by its Home Secretary,
Fort St.George,
Chennai – 9.

2.The Director General of Police,

Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

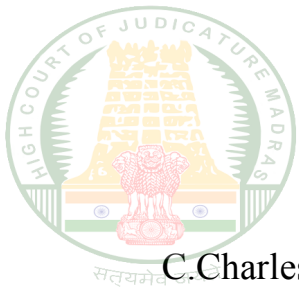


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3. The Deputy Inspector General of Police,
Tirunelveli Range,
Palayamkottai, Tirunelveli.

4. The Superintendent of Police,
Kanyakumari District
@ Nagercoil – 1.

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records relating to the impugned order in Na.Ka.No.A1/15265/2021, dated 29.11.2021, Na.Ka.No. 44142/2021, dated 21.12.2021, Na.Ka.No.A1/44648/2021, dated 22.12.2021, Na.Ka.No.A1/44139/2021, dated 21.12.2021, Na.Ka.No.A144143/2021, dated 21.12.2021, Na.Ka.No.A1/44861/2021, dated 22.12.2021, Na.Ka.No.44649/2021, dated 22.12.2021, Na.Ka.No.A1/15265/2021, dated 25.11.2021, Na.Ka.A1/44204/2021, dated 21.12.2021, Na.Ka.No.A1/44145/2021, dated 21.12.2021, Na.Ka.No.A1/44651/2021, dated 22.12.2021, Na.Ka.No.A1/44141/2021, dated 21.12.2021, Na.Ka.No.A1/45381/2021, dated 23.12.2021, Na.Ka.No.A1/44144/2021, dated 21.12.2021, Na.Ka.No.A1/45317/2021, dated 23.12.2021, Na.Ka.No.A1/45319/2021, dated 23.12.2021, Na.Ka.No.A1/4383/2021, dated 21.12.2021, Na.Ka.No.A1/44815/2021, dated 22.12.2021 issued by the 4th respondent and to quash the same with the consequential direction to all 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 order dated 27.06.2011 and 4864 of 2011 order dated 27.04.2011 on the file of this Court.



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C.Charles

... Petitioner in WP(MD)No.1270 of 2022

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Vs.

- 1.The State of Tamil Nadu,
Represented by its Home Secretary,
Fort St.George,
Chennai – 9.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.
- 3.The Deputy Inspector General of Police,
Tirunelveli Range,
Palayamkottai,
Tirunelveli.
- 4.The Superintendent of Police,
Kanyakumari District
@ Nagercoil – 1.

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to provide notional promotion with all salary and pension benefits as such in the case of the petitioners in WP(MD)Nos.2888 of 2011, 2989 of 2011 and 4864 of 2011 on the file of this Court to the petitioner vide the petitioner's representation dated 01.02.2021.

For Petitioner : Mr.D.Saravanan

For Respondents : Mr.K.Balasubramanian,

Special Government Pleader

in the above writ petitions



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ORDER

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These writ petitions have been filed by the retired police personnels as against the impugned orders passed by the Superintendent of Police concerned, 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 and for a direction to the respondents to grant notional promotion with all salary and pension benefits based on their representations as that of the petitioners in WP(MD).Nos.2888 of 2011, 2989 of 2011 order dated 27.06.2011.

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



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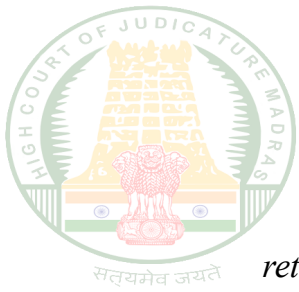
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10 years of service and Head Constable, who has completed 15 years of service in the Department. Another Government order has also been issued in G.O.Ms.No.15, dated 07.01.2010, wherein, powers have been delegated to promote the police constables as 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 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



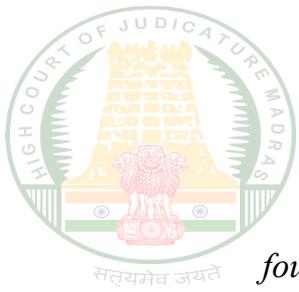
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retrospectively. There is no question of bringing the theory of deemed retrospective operation of a Government Order, when the relevant order is crystal clear that the intention is only to give effect prospectively. The interpretative process could 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 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



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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.

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.



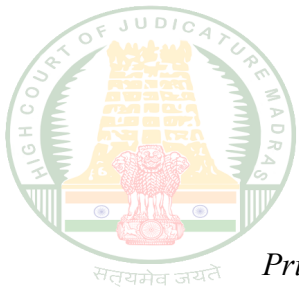
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7. We find that the submissions made by the learned counsel appearing for the petitioners merit acceptance while holding that the relief sought for in all these writ petitions is covered by the order of the Division Bench of this Court in W.A.Nos.47 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



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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 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



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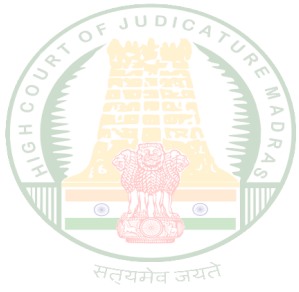


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prospectively but it imposes/grants new results in respect of a past event. In other words, the Government Order operates forward but it looks backward and in that it attaches new consequences for the future to an event that took place before the Government 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 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.



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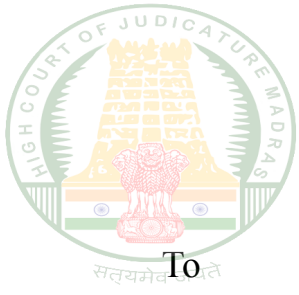
6. In view of the above submissions and taking into consideration the ratio laid down by the Larger Bench of this Court, these Writ Appeals are allowed and the respective orders of the learned Single Judges are hereby set aside. No costs. Consequently, connected Miscellaneous Petitions are closed."

6.As noted by the Hon'ble Division Bench of this Court in W.A.No. 3748 of 2019, this issue has been already decided by a Hon'ble Full Bench of this court by order dated 04.02.2022 that there is no deemed upgradation or promotion contemplated in the relevant Government Order and they operate prospectively but impose new results in respect of a past event, these writ petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

29.01.2025

Internet : Yes / No

DSK



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To

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Fort St.George,
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Mylapore, Chennai – 600 004.
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Thanjavur Range,
Thanjavur, Thanjavur District.
- 4.The Superintendent of Police,
Thanjavur District,
Thanjavur.
- 5.The Deputy Inspector General of Police,
Trichy Range, Trichy.
- 6.The Superintendent of Police,
Trichy District, Trichy.
- 7.The Deputy Inspector General of Police,
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B.PUGALENDHI, J.

DSK

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