

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 11.9.2015.

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE P.R.SHIVAKUMAR

Review Application No.3 of 2015

M.Devan

Petitioner

vs.

1. The Tamil Nadu Civil Supplies
Corporation,
rep. by its Regional Manager,
Dharmapuri Region, Dharmapuri.

2. The Tamil Nadu Civil Supplies
Corporation
rep. by its Chairman cum
Managing Director,
42, Thambuswamy Road, Chennai 10.

Respondents

Review Petition against the order dated 4.12.2014 in
W.A.No.2710 of 2012 on the file of this court.

For petitioner : Mr.S.Venkataraman

JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN, J.)

The workman, who unsuccessfully challenged the denial of 50%
backwages to him, in the writ appeal, has come up with the above

review application.

2. Heard Mr.S.Venkataraman, learned counsel for the petitioner.

3. The petitioner herein filed a writ petition in W.P.No.19711 of 2004, challenging an order of dismissal from service passed against him. A learned Judge of this court allowed the writ petition partly, directing reinstatement with 50% of backwages.

4. As against the order of the learned Judge, the Management filed a writ appeal in W.A.No.2398 of 2012. The appellant herein was on caveat and in his presence, the writ appeal filed by the Management was dismissed by a Division Bench, by an order dated 9.11.2012. The Management filed a Special Leave Petition in S.L.P.No.9139 of 2013, but, the same was also dismissed by the Supreme Court by an order dated 4.3.2013, again, passed in the presence of the appellant herein.

5. In the meantime, the appellant appears to have filed an independent writ appeal as against the order of the learned Judge denying him 50% of the backwages. The said writ appeal, either by fortuitous circumstances or by deliberate design, came up for admission in January 2013, after the writ appeal filed by the Management got dismissed. At the time of final hearing, the writ

appeal filed by the appellant herein in W.A.No.2710 of 2012 was dismissed by the Bench by an order dated 4.12.2014 on the ground that the order of the learned Single Judge, against which the writ appeal was filed, had already merged with the order of the Division Bench.

6. Aggrieved by the dismissal of this writ appeal seeking the balance 50% of backwages, the workman has come up with the above review.

7. The main contention of Mr.S.Venkataraman, learned counsel for the petitioner is that this Bench dismissed the writ appeal on the ground that the appellant failed to bring to the notice of the Division Bench which heard Writ Appeal No.2398 of 2012 about the pendency of his own writ appeal. The appellant's own writ appeal viz., W.A.No.2710 of 2012 was not at all numbered on 9.11.2012 when W.A.No.2398 of 2012 was dismissed. Therefore, the contention of the learned counsel for the appellant is that this Bench was in error in thinking that the writ appeal in W.A.No.2710 of 2012 was pending on the date on which the Management's writ appeal came up for hearing. But, we do not think that this is a ground for review of the order. In para 6 of the order dated 4.12.2014, this court used the expression

"pendency of the present writ appeal", which need not necessarily be taken as the pendency of an admitted writ appeal, in a literal sense. As seen from para 7 of the order, this court went by the doctrine of merger.

8. No ground for review is made out. Therefore, the review is dismissed. The petitioner has already been protected by some observation in para 8 of the order, which will continue to hold good. No costs.

(V.R.S.,J.) (P.R.S.,J.)
11.9.2015.

Index: Yes/No.
Internet: Yes/No.
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To

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V.RAMASUBRAMANIAN, J.
AND
P.R.SHIVAKUMAR, J.

Ssk.

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