

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND
THE HONOURABLE MR.JUSTICE C.T.SELVAM

Review Application No.93 of 2015
in
W.A.No.969 of 2014
in
W.P.No. 2454 of 2014

1. The Registrar
Anna University,
Chennai-600 025.

2.The Vice Chancellor,
Anna University,
Chennai-600 025.

3.Syndicate Committee,
Anna University,
Sardar Patel Road,
Chennai-600 025.

..Applicants

Vs

1.Dr.S.Chandramohan,
B1, 7/4. Rangarajapuram I Street,
MARS Foundations,
Saidapet,
Chennai-600 015.

..1st Respondents

2.Dr.P.Mannar Jawahar (Ex.VC)
P1, Staff Quarters, Anna University,
Chennai-600 025.

3.Dr.Shamugavel (Ex.Registrar)
Professor ECE,
Anna University, Chennai-600 0205.

4.Dr.V.Rhymed Uthiriaraj,
VCS Nominee
Director Ramanujam Computing Centre,
Anna University, Chennai-600025.

5. Ramesh Chand Meena, IAS.,
(Government Nominee)
Secretary to Governor,
Govt. of Tamil Nadu,
Raj Bhavan, Chennai-600 025.
 6. Prof. G.T. Manohar,
Retd. Professor IIT.,
No.10/12, 11st East Street,
Kamaraj Nagar,
Thiruvanmiyur, Chennai-600 041.
 7. Dr. M.C. Vaidyalingam
Retd. Professor Anna University,
New No.33, Old No.13C,
Ground Floor,
Kalashetra Road,
Thiruvanmiyur,
Chennai-600 041.
 8. Dr. B. Uma Maheswari
Chairman, Faculty of Electrical Engineering,
Anna University,
Chennai-600 025.
 9. Dr. N. Kumaravel (HOD)
(Representing Head of Department)
Professor, Department of Mechanical Engineering,
CEG Campus,
Anna University, Chennai-600 025.
 10. Dr. S. Rajendran Boopathy
[SC/ST Committee Member],
Professor, Depart. of Mechanical Engineering
CEG Campus,
Anna University,
Chennai-600 025.
 11. Dr. S. Usa
(Selected Candidate), Associate Professor,
High Voltage Engineering,
Anna University, Chennai-600 025.
 12. Dr. V. Gowri Sree,
Associate Professor,
High Voltage Engineering
Anna University, Chennai-600 025.
- ... Respondents

PRAYER : This Review Application is filed under Order XLVII Rule 1 read with Section 114 of Code of Civil Procedure seeking an order by setting aside the judgment dated 23.04.2015 made in W.A.No.969 of 2014

For Applicants : Mr.M.Vijaykumar

For Respondents : Mr.N.G.R.Prasad for
M/s.Row & Reddy for R1

No appearance for R2, 4,
5, 6, 8, 9, 10, 11 & 12

Mr.R.Mohana Raja for R12

ORDER

(Order of the Court was made by **S.TAMILVANAN, J**)

This Review Application has been preferred by the applicants under Order XLVII Rule 1 & 2 r/w. Section 114 of Code of Civil Procedure against the judgment in W.A.No.969 of 2014, dated 23.04.2015 whereby the Division Bench of this Court confirming the order passed by the learned Single Judge in W.P.No.2454 of 2014 dated 13.06.2014, dismissed the writ appeal preferred by the Review Applicants herein.

2. The Writ Petition has been filed to quash the Minutes of the Selection Committee (comprised of respondents 4 to 12) dated 14.06.2012, constituted by the 1st applicant herein for selection of the post of the Professor in Electrical and Electronics Engineering (EEE) Department read with consequential order (Resolution) of the 3rd applicant herein bearing No.215.3.1 dated 22.06.2012, approving the selection of candidates for the post of Professor in Electrical and Electronics Engineering (EEE) Department,

for which no candidate of Arunthathiyar or other Branch of SC was found and consequently direct the applicant University herein to appoint the 1st respondent as Professor in Electrical and Electronics Engineering (EEE) Department in the SC (Arunthathiyar) vacancy as per the notification of the first applicant herein dated 14.01.2011.

3. Having considered the submissions made by both the counsel, the learned Single Judge allowed the writ petition, holding that the non- selection of writ petitioner is against law and set aside the order and further, the respondent University was directed to appoint the writ petitioner as Professor in the Department of EEE as against the vacancy earmarked for Scheduled Caste (Arunthathiyar) under the prospectus. It was further directed that such appointment order shall be issued within a period of four weeks from the date of receipt of a copy of the order. Aggrieved over the same, the Review applicants herein preferred the Writ Appeal in W.A.No.969 of 2014 and a Division Bench of this Court confirming the order passed by the learned Single Judge, dismissed the Writ Appeal.

4. Mr.M.Vijayakumar, learned counsel for the review applicants has not disputed the fact that in the reservation of the Scheduled Caste Candidates, 3% internal reservation has been made for Arunthathiyar Community of Scheduled Caste, considering the backwardness of the Arunthathiyar community among the Scheduled Caste community. It is made clear that if no qualified and suitable candidate belonging to Arunthathiyar

community of Scheduled caste is available, that vacancy shall be filled up only from the other Branch of Scheduled Caste candidates. It is also not in dispute that there was no qualified Arunthathiyar community candidate and two candidates from the other Branch of the Scheduled Castes have applied for the post, however, no one was considered for the vacancy by the applicants herein, which resulted in filing the writ petition, that was allowed by a Learned single Judge. The Writ Appeal preferred by the Review Applicants herein was also dismissed, confirming the order passed by the learned single Judge.

5. Learned counsel for the Review Applicants further submitted that both the candidates had obtained only fail marks, hence, no one was selected for the Scheduled Caste quota. It was submitted by the counsel for the applicants, that the learned Single Judge had passed order without considering the view of the Board holding that the candidates were not suitable and that was not considered by the Division Bench. In support of his contention, the counsel for the Review Applicants, relied upon the decision in **AWADH BIHARI SINGH AND OTHERS V. STATE OF BIHAR AND OTHERS** reported in **1993 Suppl (4) Supreme Court Cases 594**.

6. Per contra, Mr.N.G.R.Prasad, learned counsel for the first respondent submitted that the decision relied upon by the review applicants is not applicable to the facts of the case on hand and he drew the attention of this Court to the scope of review under Order 47 Rule 1 read with Under Section 114 of the Code of Civil Procedure and submits that only if there is any

clerical error or arithmetical error or error apparent on the face of record, the applicants could seek review of the order. According to him, in the instant case, there is no such error, to maintain the Review Application against the Judgment rendered in the Writ Appeal.

7. We are of the considered view that the arguments of the learned counsel for the applicants, has no substance to maintain the Review Application, since *prima facie*, we see no error apparent on the face of the record and similarly, neither any clerical or arithmetic error, to be rectified, by way or review.

8. It is well settled that when the Court deals with the review application, it cannot go into the merits of the matter, that was decided by the earlier Bench. Having carefully gone through the judgment of the Division Bench, we find that the Division Bench has rightly dismissed the writ appeal, holding that the learned single Judge has considered every aspect of the matter in an appropriate perspective and therefore, the Division Bench has no hesitation to confirm the view taken by the learned single Judge. On the aforesaid circumstances, we are of the view that the review application itself is not legally sustainable and the same is liable to be dismissed.

9. It is an undisputed fact that the vacancy of the post of Professor in Electrical and Electronics Engineering (EEE) Department of the Review applicant's University is for the 3% of the Arunthathiyar Community quota of

Scheduled Caste, which is an internal reservation, to uplift the said community, curved out from the candidate in the Arunthathiyar Community, the same shall be allotted to the other Branches of Scheduled Castes and hence, the applicants cannot dispute the same. In the instant case, as there was no qualified candidate for the vacancy from the Arunthathiyar community, as per law, the same should be filled up from the other Branches of the list of Scheduled Castes community.

10. The writ petitioner and another, having the required qualification in the other Branch of Scheduled Caste community competed for the vacancy. It is not the case of the Review applicants that the petitioner has not possessed the required educational and other qualification for the post. Similarly, the Review applicants have not raised any plea of disqualification against the writ petitioner in getting the appointment. On the facts and circumstances, it was the duty of the Selection Board / Review Applicants to select one of the candidates, by way of conducting interview. The view of the Board, holding that both were not found competent is totally against law and social justice. As the Educational qualification of the petitioner has been decided by a recognized University, by way of awarding the required degree, the Review Applicants would have no competency or locus standi, to take a different view and hold that the petitioner is not competent or suitable for the post, without properly understanding the order passed by the learned single Judge, confirmed by the Division Bench in W.A.No.969 of 2014. Preferring this type of Review Application, which is not legally sustainable would not only create unreasonable

hardship to the writ petitioner, but also cause unwanted litigation expenses to the Government, which cannot be appreciated.

11. Having considered the facts and circumstances, we are of the considered view that the Review Application is not legally sustainable and make it clear that the order passed in the writ petition, confirmed in the writ appeal shall be complied with by the Review Applicants forthwith, without causing delay.

With the above observations, the Review Application is dismissed. No costs.

[S.T., J] [C.T.S.,J]
15.10.2015

Index : Yes
Internet: Yes

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S.TAMILVANAN, J
and
C.T.SELVAM, J

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