



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.11.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
AND

THE HONOURABLE MRS.JUSTICE R.THARANI
Review Application(MD) Nos.38, 4 and 6 of 2015

and

M.P. (MD)No.1 of 2015 in Rev.Aplc. (MD)No.38 of 2015

and

M.P. (MD)Nos.2 and 3 of 2015 in Rev.Aplc. (MD)No.4 of 2015

and

M.P. (MD)Nos.2 and 3 of 2015 in Rev.Aplc. (MD)No.6 of 2015

Against

WP (MD)No.4516 of 2013

Rev.Aplc. (MD)No.38 of 2015:-

Dr.Mamallan, A.

.. Petitioner/Petitioner

Vs.

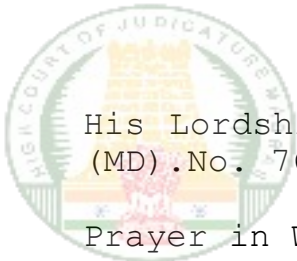
1. The Government of Tamil Nadu,
Rep. by its Chief Secretary,
Secretariat, Chennai.
2. The Government of Tamil Nadu,
Rep. by its Secretary,
Finance Department,
Secretariat, Chennai.
3. The Director/Principal Secretary,
Indian Medicine and Homeopathy,
Arumbakkam, Chennai - 106.

.. Respondents

Prayer : Review Application is filed under Order 47 Rule 1 and Section 114 of CPC r/w. Article 226 of the Constitution of India, to review the order passed in W.P.(MD)No.4516 of 2013, dated 19.06.2014.

Prayer in WP(MD). 4516/ 2013 :

Writ Petition is 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 proceedings in Letter NO. 18412/Finance(PGC) Department/2010 dated 02.04.2012 including with the G.O. Ms.No. 259 Finance (Pension) Department dated 06.08.2003 and G.O.Ms.No. 430 Finance (Pension) Department dated 06.08.2004 mentioned in the impugned order issued by the Office of the 2nd Respondent and quash the same in respect of the petitioner alone and direct the Respondents to include the petitioner in the old existing pension scheme with G.P.F Tamil Nadu Pension Rule 1978.



His Lordship Honourable Mr. Justice, S. Nagamuthu and passed in WP. (MD).No. 7628/2005 on the file of this Honourable Court.

Prayer in WP(MD). 7628/ 2005 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ of certiorarified Mandamus or any other order or direction in the nature of Writ calling for the reocords in the 1st respondent letter No.47286/Allowances/0601, dated 7.9.2006 and quash the same and direct the respondents 1 to 4 to grant the petitioner the benefits of General Provident Fund Scheme and other service benefits available to the Asst. public Prosecutor Gr.II, who ever recruits by the TNPSC on 9-11/2011 for the block year 1998 to 2002" [prayer amended as per order dt 29/7/2013 in mp(md) 1/2013 in wa(md) 217/2011]

Prayer in WP(MD). 2345/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, that the petitioner is eligible to be admitted into the General Provident Fund scheme available to the assistant Public prosecutors Grade-II, who were recruited by the T.N.P.S.C on 09/11/01 for the block year 1998-02 and consequently direct the 3rd respondent to accept the proposal dated 21/06/2006 sent by the 4th respondent on behalf of the petitioner for allotting G.P.F. permanent account number and pension scheme after attaining superannuation

For Petitioner : Mr.K.R.Laxman
(in both the Review for Mr.G.Thalamutharasu
Applications)

For R1, R2 & R4 : Mr.M.Murugan
(in both the Review Government Advocate
Applications)

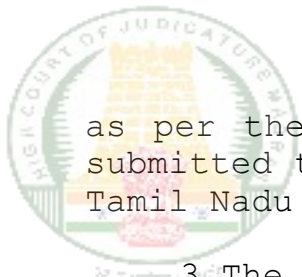
For R3 : Mr.P.Gunasekaran
(in both the Review
Applications)

COMMON ORDER

(Order of the Court was made by V.M.VELUMANI, J.)

These Review Applications are filed by the petitioners to reconsider the common judgment passed in W.P.(MD)No.4516 of 2013, W.A.(MD)No.217 of 2011 and W.P.(MD)No.2345 of 2007, dated 19.06.2014, respectively.

2.The learned counsel appearing for the petitioner in Review Application(MD)No.38 of 2015 referred to various Government Orders and has submitted that as per G.O.Ms.No.259, Finance (Pension) Department, dated 06.08.2003, the petitioner is entitled to pension



as per the Tamil Nadu Pension Rules before amendment. He further submitted that the Division Bench of this Court did not consider the Tamil Nadu Pension Rules.

3. The learned counsel appearing for the review petitioners in Review Application (MD) Nos. 4 and 6 of 2015 adopted the arguments of the learned counsel for the review petitioner in Review Application (MD) No. 38 of 2015 and submitted that the review petitioners were recruited by selection before 01.04.2003, but appointment order was issued subsequent to 01.04.2003 and therefore, the amendment, which came into force with effect from 01.04.2003, is not applicable to them.

4. We have heard the learned counsel appearing for the parties and perused the materials available on record.

5. In the impugned judgment, the Division Bench of this Court has considered the term 'recruitment' and 'appointment' and held that for the persons appointed on or after 01.04.2003, the amended Tamil Nadu Pension Rules only are applicable. The contentions now raised in the Review Applications by the review petitioners were already considered by the Division Bench of this Court and were rejected. Therefore, the review petitioners are not entitled to re-agitate the said issue again by way of the present Review Applications. There is no error in the said common judgment warranting re-consideration by this Court.

6. It is well settled that the scope of review is very limited. The scope of review was considered by the Hon'ble Apex Court in a judgment reported in **2000 (6) SCC 224 [Lilli Thomas and Others Vs. Union of India and Others]**, wherein, at Paragraph 52, it was held as under:

*"52. The dictionary meaning of the word "review" is "the act of looking, offer something again with a view to correction or improvement". It cannot be denied that the review is the creation of a statute. This Court in **Patel Narshi Thakershi Vs. Pradyumansinghji Arjunsinghji [1971 (3) SCC 844 : AIR 1970 SC 1273]** held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of law cannot stand in the way of administration of justice. Law has to bend before justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in a miscarriage of justice, nothing would preclude the Court from rectifying the error."*



7.A Division Bench of this Court in a judgment reported in "2014 (3) TLNJ 245 (Civil) [M.Jai Kavitha Vs. The Authorised Officer, Syndicate Bank, Regional Office, Chennai - 1 and others]," has considered the scope of judicial review, wherein the decision of the Honourable Apex Court was noted with approval. Paragraph No.9 of the said Judgment reads as under:

"9.The power of review under Order 47 Rule 1 of CPC can be exercised by a court of law, if the order in question comprises a mistake or an error apparent on the face of record. Once an order is pronounced, it should not be altered, unless there is an apparent error. Law is well settled that erroneous finding is not a ground for review, so also improper consideration for that matter. In review application, the court does not sit in appeal over its own judgment and the said application cannot be treated as an appeal. This position has been ruled by the Supreme Court in Lily Thomas Vs. Union of India [2000 (6) SCC 224]. Therefore, in the absence of any error apparent on th face of record, we are not inclined to interfere with the order in question, except to the extent of deleting of the portions in paragraphs 14 and 15 of the impugned order, with which the applicant is concerned as to having an impact on the proceedings pending before the tribunal, as stated in the foregoing paragraph."

(emphasis supplied)

8.In the light of the dicta laid down by the Honourable Apex Court as well as by the Division Bench of this Court, we are of the considered view that the earlier order of the Court can be reconsidered, only if there is an error apparent on the face of the record and in that event, the said error can be rectified. Otherwise, a Review Application is not at all maintainable. In the present cases on hand, the Review Petitioners failed to raise any ground, reason or cause, warranting interference at the hands of this Court. Therefore, we do not find any error apparent on the face of record in the common judgment passed in W.P.(MD)No.4516 of 2013, W.A.(MD)No.217 of 2011 and W.P.(MD)No.2345 of 2007, dated 19.06.2014. Accordingly, the Review Applications fail.

9.In the result, these Review Applications are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

<https://hcservices.courts.gov.in/fcses/Secr>
Secretary to Government of Tamil Nadu,
Secretariat, Chennai.



2. The Secretary to Government of Tamil Nadu,
Finance Department,
Secretariat, Chennai.
3. The Director/Principal Secretary,
Indian Medicine and Homeopathy,
Arumbakkam, Chennai - 106.
4. The Secretary to Government of Tamil Nadu,
Home (Courts-VI) Department,
Fort St. George,
Chennai - 600 009.
5. The Secretary to Government of Tamil Nadu,
Finance (Pension) Department,
Fort St. George,
Chennai - 600 009.
6. The Assistant Accounts Officer,
O/o. The Principal Accountant General (A & E),
Chennai - 600 018.
7. The Assistant Director of Prosecution,
Tuticorin,
Tuticorin District.
8. The Divisional Deputy Director of Prosecution,
Tirunelveli District,
Tirunelveli.

+2cc to Mr.R.Lakshmanan, Advocate Sr.No.94290
+1cc to Mr.P.Gunasekaran, Advocate Sr.No.94150

smn2

KM/SKN/SAR1/22.01.2019/6P/12C

**Common Order made in
Review Application (MD) Nos.38, 4 and 6 of 2015
02.11.2018**