

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15..03..2016

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

Review Application (Writ) No.265 of 2015
in W.P.No.17286 of 2013

The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Chennai - 600 028.

... Petitioner

Vs.

V.Subramanian

... Respondent

* * *

Prayer : Review Application filed under Order 47 Rule 1 of Code of Civil Procedure read with Section 114 of the Code of Civil Procedure praying to review the order dated 27.06.2013 made in W.P.No.17286 of 2013.

* * *

For Petitioner : Mr.P.H.Aravind Pandian,
Additional Advocate General
assisted by Mr.P.Karthikeyan

ORDER

This review application is to review my order dated 27.06.2013 in
W.P.No.17286 of 2013.

2. The respondent in the review application filed W.P.No.17286 of 2013 to quash the dismissal order dated 15.03.2006, that was passed against him solely based on the conviction by the criminal Court on the ground that the conviction was set aside by this court in appeal.

3. This Court on 27.06.2013 allowed the writ petition and paragraph 6 of the order dated 27.06.2013 is extracted hereunder :

“6. I have perused the dismissal order dated 15.03.2006. The same was passed solely based on the conviction by the criminal court. When the basis for the dismissal order viz., conviction and sentence, was set aside by this court by an order dated 30.6.2011 in Criminal Appeal No.408 of 2005, I am of the view that the dismissal order is liable to be quashed. Accordingly, the impugned order dated 15.03.2006 is quashed and the respondent is directed to pay all his service and retirement benefits, within a period of twelve weeks from the date of receipt of a copy of this order.”

4. Now this review application is filed stating that the dismissal order dated 15.03.2006 was cancelled by the review petitioner by issuing the proceeding in Proc.No.11635/V2/2012, dated 12.09.2013 and placing the

respondent/the writ petitioner under suspension and not allowing him to retire on attaining the age of superannuation on 31.01.2011 pending disposal of the departmental proceedings. It is stated that already a charge memo dated 26.05.2004 was issued to the respondent herein. Hence, this review application.

5. The learned Additional Advocate General submitted that the order dated 27.06.2013 may be modified, in view of the proceedings dated 12.09.2013 cancelling the dismissal order, pursuant to the order of this Court dated 27.06.2013 in W.P.No.17286 of 2013 and also taking into account, the fact that the charge memo was already issued on 26.05.2004 and the respondent is not permitted to retire by the said proceeding dated 12.09.2013, while he reached the superannuation on 31.01.2011.

6. I am not inclined to agree with the submission made by the learned Additional Advocate General. As per the Fundamental Rules, the respondent is deemed to have retired on 31.01.2011, in view of the order dated 27.06.2013 in W.P.No.17286 of 2013. It is a different matter if the review petitioner passed the order cancelling the dismissal order before 31.01.2011, the date of superannuation and kept the employee under suspension and not permitting him to retire. But, it is not so.

7. Now, the review petitioner could not place retrospectively, the respondent under suspension by an order dated 12.09.2013 with effect from 31.01.2011 and seeks to modify the order dated 27.06.2013 in W.P.No.17286 of 2013.

8. For all the aforesaid reasons, I am inclined to reject the review application. Accordingly, the review application is dismissed.

15.03.2016

Index : Yes / No

Internet : Yes

gg

D.HARIPARANTHAMAN , J.

gg

Order in

Rev.Appln.(Writ)No.265 of 2015

15.03.2016