

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.10.2016**

CORAM :

THE HONOURABLE Mr.JUSTICE T.RAJA

Review Application No.42 OF 2016

M.Prabhakaran

... Applicant

vs.

1. Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai-600 003.
 2. Tamil Nadu Public Service Commission,
Rep. by its Controller of Examinations,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai-600 003.
 3. The Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai-600 003.
 4. Government of Tamil Nadu,
Rep. by Deputy Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.
 5. The Special Commissioner and Director of Survey
and Settlement,
"Survey House"
Chepauk, Chennai-600 005.
- ... Respondents

Review Application has been filed under Order 47, Rule of the Code of Civil Procedure to re-consider the order dated 02.03.2016 made in W.P.No.7840 of 2016 by reviewing the same for the reasons set out herein and set aside the memo of the 1st respondent dated 11.12.2015 bearing No.5258/DTD-D2/2015..

For Applicant : Dr.A.E.Chellaiah, Senior Counsel for
M/s.C.Saifullah

ORDER

This Review Application has been filed challenging the impugned order dated 02.03.2016 passed by this Court in the Writ Petition in W.P.No.7840 of 2016

2. Dr.A.E.Chellaiah, the learned Senior Counsel appearing for the Review Applicant would submit that the impugned order requires re-consideration, since the order has been passed under the impression that the applicant has given a confession statement admitting his guilt. As a matter of fact, there is no malpractice or confession made by the petitioner. Moreover, when nothing was seized from him either paper or book and the memo dated 11.12.2015, debarring the petitioner from appearing for the future examinations, is also silent about such wild allegation. Besides when he has also established the fact that the paper found nearby him are not related to the answers given by him, without any enquiry, the impugned order is liable to be reconsidered. It is further submitted that the applicant was appointed as a Field Surveyor under

compassionate ground. He would further submit that without appreciating or considering his explanation, he has been debarred from writing the examination for three years. Adding further, he would submit that when the incriminating paper recovered from the examination hall shows that he has not carried out the answers as that of the incriminating papers, a decision cannot be taken against him. Therefore, a lenient view may be taken, it is pleaded.

3. But this Court is not able to find any error apparent on the face of the record, which has to be established to review or recall the order passed by this Court. As a matter of fact, when this Court has seen the explanation given by the applicant admitting his guilt, dated Nil enclosed page 3 and 4 of the typed set filed in the writ petition, has come to the conclusion, the review application could not be entertained.

4. The Hon'ble Apex Court in **S.L.Kappor v. Jagmohan [(1980) 4 SCC 379]** held that non-observation of the principles of natural justice cannot be violating every order if admitted or indisputable facts are involved. In the present case, applying the said principle, I have concluded that as the petitioner in his explanation admitted his guilt, the question of violation of the principles of natural justice would not arise for not holding the enquiry, because, even if the impugned order is set aside with a

direction to the respondent to

T.RAJA, J

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provide him an opportunity, again the admission of the petitioner cannot be obliterated, thus, this will only a mere empty formality.

5. As I mentioned above, there is no error apparent on the face of the record in the impugned order and since this Court, on the basis of the explanation given by the petitioner in the writ petition that he has admitted his guilt, has come to the conclusion, is not inclined to re-visit the impugned order. Accordingly, the review application fails and the same is dismissed.

21.10.2016

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