

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.08.2017

Delivered on : 13.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYNARAYANAN

Review Application No.126/2017

1.A.Ramakrishna
2.R.Tharabai
3.L.Kusalakumari
4.R.Gandhiammal
5.K.Radha
6.M.Sundaravelu
7.M.Kanniappan
8.S.Yuvaraj
9.B.Varalakshmi

.. Review Applicants /
Writ Petitioners

Versus

1.The State of Tamil Nadu rep.by its
Secretary to Government,
Health & Family Welfare Department
Secretariat, Chennai-9.

2.The Director of Medical Education
Kilpauk, Chennai 600 010.

3.Dean
Government Stanley Hospital
Chennai 600 001.

.. Respondents
/ Respondents

Prayer:- Review Application filed under Order 47 Rule 1 read with section 114 CPC against the order dated 20.04.2017 made in WP.No.17309/2012 insofar as it denies the regularisation from the date of completion of ten years of service.

For Review Applicants : Mr.P.Ganesan for
M/s.C.S.Associates

For Respondents : Mr.A.N.Thambidurai, Spl.GP

ORDER

The petitioners in WP.No.17309/2012 are the review applicants and they seek to review the final order dated 20.04.2017 passed in the said writ petition.

2 The review applicants / writ petitioners had filed WP.No.17309/2012 against the official respondents praying for issuance of a writ of certiorarified mandamus to quash the order of the 1st respondent dated 02.01.2012 as well as the consequential order passed by the 3rd respondent dated 07.02.2012, insofar as denying the retrospective

regularisation of the review applicants / writ petitioners with a further direction, directing the respondents therein to regularise their services retrospectively on completion of ten years as per G.O.Ms.No.300 of the 1st respondent Department dated 21.08.2000.

3 The writ petition was entertained and the respondents 1 and 2 had filed the counter affidavit and contended among other things that as per G.O.Ms.No.103 of the 1st respondent Department dated 21.05.2003, orders have been issued relaxing the rule relating to age and the rule of reservation in favour of 25 individuals of the Government Stanley Hospital, Chennai, so as to regularise their services from the date of issuance of the order subject to the condition that there should be regular vacancies in the post of Hospital Worker. Similarly, vide G.O.Ms.NO.9 of the 1st respondent Department dated 05.01.2007, orders have been issued to regularise the services of 18 Male and 17 Female Substitute Workers by relaxing the rule 5[1] of the Special Rules for the Tamil Nadu Basic Service relating to age and Rule 3A of the Special Rules for the Tamil Nadu Basic Service relating to the rule of reservation in their favour and to regularise their service from the date of issuance of the order subject to the availability of regular vacancies in the post of Hospital Worker and as such, the request made by

the review applicants / writ petitioners cannot be considered.

4 This Court, while disposing of the writ petition, has taken into consideration of the fact that the Government Order regularising the services of the review applicants / writ petitioners came to be passed on 05.01.2007 vide G.O.Ms.NO.9, Health and Family Welfare Department, and their request for regularisation should have been considered at least from the expiry of the time limit fixed by the Tamil Nadu Administrative Tribunal for disposal of the said representation and citing the said reason, had disposed of the writ petition by directing the respondents 1 to 3 therein to consider the regularisation of the service of the writ petitioners from the date of expiry of the time limit fixed by the Tamil Nadu Administrative Tribunal vide orders dated 29.04.2003 and 27.06.2003 respectively made in OA.Nos.1733 and 2163/2003 by passing appropriate orders within a period of three months from the date of receipt of a copy of that order and communicate the decision taken, to the writ petitioners.

5 Mr.P.Ganesan, learned counsel appearing for the review applicants / writ petitioners would contend that insofar as the review applicants / writ petitioners 1, 6, 7 and 8 are concerned, they are male

and they are similarly placed and appointed along with others who had

been given regularisation on completion of ten years and when the benefit of regularisation to destitute widows and male hospital workers who were working along with them were given to them on completion of ten years, their case should have been considered favourably and regularisation should have been done on completion of ten years of service and therefore, denial of the same to the review applicants / writ petitioners 1, 6, 7 and 8 would amount to discrimination.

6 *Per contra*, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would contend that the review applicants / writ petitioners under the guise of this review application, cannot re-agitate the matter once again and since there is no error apparent on the face of the record, the impugned order warrants no interference and prays for dismissal of the review application.

7 The very same point was urged by the learned counsel for the review applicants / writ petitioners even in the writ petition and in paragraph No.7, this Court had also observed that a fair and intelligible

criteria has been adopted and it also amounts to reasonable classification and therefore, accommodation of the destitute widows by giving preference for regularisation of their services, cannot be faulted with.

8 It is a well settled position of law that the Review jurisdiction must be exercised within the framework of section 114 read with Order 47 Rule 1 CPC. The power of review cannot be confused with the Appellate power which enables the Superior Court to correct all the errors committed by the Subordinate Court. A repetition of over-ruled argument, is not enough to reopen the concluded adjudications and the power of review can be exercised with extreme care, caution of circumspection and only in exceptional cases. **[Union of India Vs. B.Valluvan and Others** reported in **AIR 2007 SC 210 ; Jain Studios Limited Vs. Shin Satellite Public Company Limited** reported in **AIR 2006 SC 2686**].

9 This Court, upon hearing the submission of the learned counsel for the review applicants / writ petitioners and on going through the materials placed before it, is of the considered opinion that there is no error apparent on the face of the record and hence, it is not a fit case to exercise the review jurisdiction.

10 In the result, the review petition is dismissed. No costs.

13.08.2017

Index : No

Internet : Yes

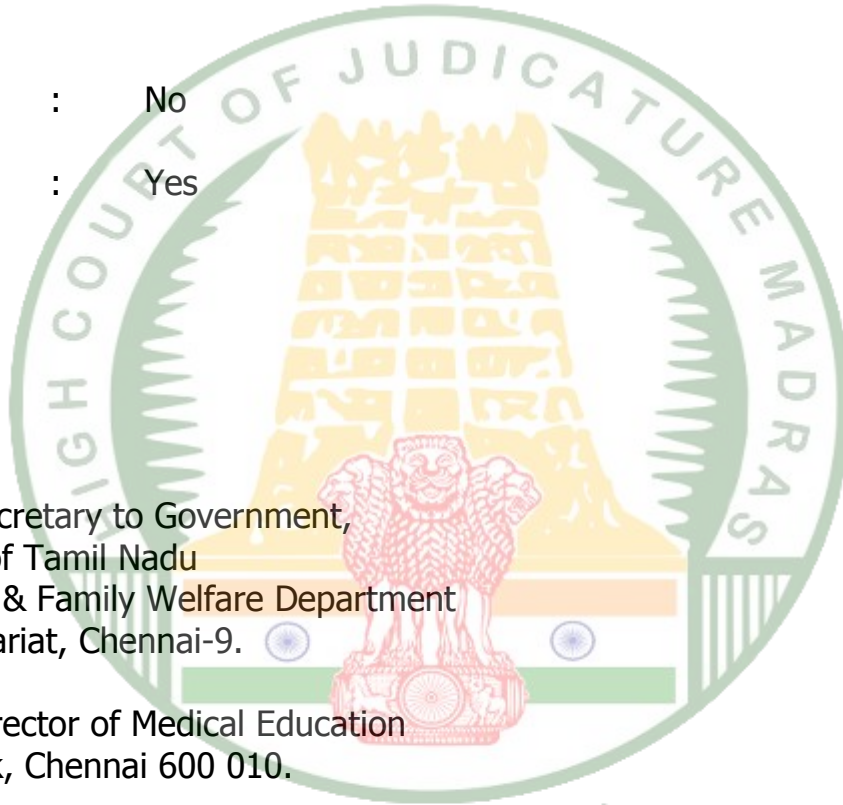
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To

1.The Secretary to Government,
State of Tamil Nadu
Health & Family Welfare Department
Secretariat, Chennai-9.

2.The Director of Medical Education
Kilpauk, Chennai 600 010.

3.Dean
Government Stanley Hospital
Chennai 600 001.



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M.SATHYANARAYANAN, J.,

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Order in
Review Application No.126/2017

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