



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

REVIEW APPLICATION [MD].Nos.4 of 2017 and 2 of 2019

and

C.M.P. (MD).Nos.537 of 2017 and 229 of 2019

- 1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
Rural Development Department,
Fort.St.George, Chennai 600 009.
- 2.The Commissioner of Rural Development,
and Panchayat Raj Department,
Pangal Building, Saidapet, Chennai 600 015.
- 3.The District Collector,
[PD] Section, Virudhunagar District,
Virudhunagar. : Petitioners in both Review
Applications/Appellants in both WP's

Vs.

V.Raj,
Deputy Block Development Officer,
District Rural Development Agency,
Collectorate, Virudhunagar.
: Respondent in Review Application (MD).No.4 of 2017

K.Elangovan,
Zonal Deputy Block Development Officer,
Panchayat Union, Devakottai,
Sivagangai District.
: Respondent in Review Application (MD).No.2 of 2019

PRAYER: Review Applications are filed under Order 47 Rule 1 and 2 of the Code of Civil Procedure r/w Section 114 of the Civil Procedure Code, against the order dated 23.11.2016 and 24.01.2017 in W.A.(MD).Nos.1429 of 2016 and 1581 of 2016.

Prayer in WA(MD). 1429 of 2016 :

To prefer this Memorandum of Grounds of Writ Appeal as
<https://hcservices.ecourts.gov.in/hcservices/>
against the order made in W.P.(MD)No.4808 of 2013, dated
14.07.2016.



Prayer in WP(MD). 4808/ 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 pertaining to G.O. (3D) No.43, Rural Development and Panchayat Raj (E3) Department dated 09.12.2011 passed by the first respondent and quash the same in so far as fixing of seniority of the petitioner by placing him in the bottom most in the seniority list of Deputy Block Development Officer as on 09.12.2011 and further direct the respondents to reckon the seniority of the petitioner in the cadre of Deputy Block Development Officer with effect from 1.5.2001 i.e. the date on which he was posted as Deputy Block Development Officer with all consequential service benefits such as retrospective promotion and pay benefits within the time limit that may be stipulated by this Hon'ble Court.

Prayer in WA(MD). 1581/ 2016 :

Prefers this memorandum of grounds of Writ Appeal as against the order passed made in W.P.(MD).No.3230/2013 dated 13.07.2016.

Prayer in WP(MD). 3230/ 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 pertaining to G.O. (3D) NO.43, Rural Development and Panchayat Raj (E3) Department dated 09.12.2011 passed by the first respondent and quash the same in so far as fixing of seniority of the Petitioner by placing him in the bottom most in the seniority list of Assistant as on 09.12.2011 and further direct the respondent to reckon the seniority of the Petitioner in the cadre of Assistant with effect from 1.5.2001, the date of posting him as Assistant with all consequential service benefits such as retrospective promotion and pay benefits within the time limit that may be stipulated by this Honble Court.

For Petitioners	: Mrs.S.Srimathy
	Special Government Pleader
For Respondent	: Mr.G.Thalaimutharasu

O R D E R

[Order of the Court was made by **R.SUBBIAH, J.**]

Seeking to review the Judgments dated 23.11.2016 and 24.01.2017 made in W.A.(MD).Nos.1429 of 2016 and 1581 of 2016, the petitioners herein have come forward with the present Review



2. Earlier, the respondents herein filed W.P.(MD).Nos.3230 and 4808 of 2013, challenging the order of the first respondent therein dated 09.12.2011 and for consequential directions to the respondents therein to reckon their seniority in the cadre of Assistant and Deputy Block Development Officer with effect from 01.05.2001.

3. By orders dated 13.07.2016 and 14.07.2016, the orders impugned in the Writ Petitions were set aside and the Writ Petitions were allowed, taking into consideration the similar order passed by a learned Single Judge of this Court dated 26.03.2015 made in W.P.Nos.27207 and 27208 of 2012. The said orders were challenged by the official respondents by filing W.A.(MD).Nos.1429 of 2016 and 1581 of 2016. By Judgments dated 23.11.2016 and 24.01.2017, the above Writ Appeals came to be dismissed, thereby confirming the order passed by the learned Single Judge. The official respondents have, therefore, come forward with the present Review Applications for the relief stated supra.

4. We have heard the submission of the learned Special Government Pleader appearing for the petitioners, the learned counsel appearing for the respondent and perused the available records carefully.

5. Before venturing into any discussion on the rival contentions, we may point out that the power of this Court in matters of review is very limited. Such power can be exercised only when there is error apparent on the face of the record or in the event an order is not reviewed, it would amount to miscarriage of justice. For the said proposition, we may usefully refer to the Judgment of a Division Bench of this Court, in **Union of India, rep by the Senior Divisional Commercial Manager, Chennai, Vs. The Registrar, Central Administrative Tribunal, Madras Bench**, reported in **CDJ 2014 MHC 241**, wherein the Division Bench has made a complete survey of several Judgments of the Supreme Court, on this question, and has ultimately, in Paragraph No.10, held as follows:-

"10. In yet another Judgment reported in **2013 (8) SCC 320, [Kamlesh Verma Vs. Mayawati and others]**, the Hon'ble Apex Court, after examining various Judgments passed earlier has held as follows"

"12. This Court has repeatedly held in various Judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only there is an error apparent on the face of record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient....."

In the above Judgment, the Hon'ble Apex Court has



laid down the principles as under:

"19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XL VII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the Judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned Judgment in the guise that an alternative view is possible under the review jurisdiction.

Summary of the principles:

20. Thus, in view of the above, the following grounds of review are maintainable, as stipulated by the statute:

20.1 When the review will be maintainable:-

(i). Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii). Mistake or error apparent on the face of record;

(iii). Any other sufficient reason.

The words 'any other sufficient reason' has been interpreted in **Chhajju Ram Vs. Neki, AIR 1922 PC 112** and approved by this Court in **Moran Mar Basselios Catholicos Vs. Most Rev. Mar Poulouse Athanasius & others [1955] 1 SCR 520**, to mean, "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in **Union of India Vs. Sandur Manganese & Iron Ores Ltd., ors., JT (2013) 8 SC 275**.

20.2. When the review will not be maintainable:-

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii). Minor mistakes of inconsequential import.

(iii). Review proceedings cannot be equated with the original hearing of the case.

(iv). Review is not maintainable, unless the material error, manifest on the face of the order, undermine its soundness or results in miscarriage of justice.

(v). A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi). The mere possibility of two views on the subject cannot be a ground for review.

(vii). The error apparent on the face of the record should not be an error which has to be fished out and

(viii). The appreciation of evidence on record is



fully within the domain of the appellate Court, it cannot be permitted to be advanced in the review petition.

(ix). Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

6. In view of the law laid down by the Division Bench of this Court in the Judgment, referred to above, we may mention that the review is not an appeal in disguise. We cannot consider any of the new materials, which were not placed before the Court, argued and not considered. Applying the said legal principles to the facts of the present case, if we analyze the grounds of review, we find no error apparent on the face of record in the order of the Division Bench. Thus, the present Review Applications are liable to be dismissed. Accordingly, the Review Applications are dismissed. If the petitioners are still aggrieved, it is always open to them to approach the appropriate forum. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
The Government of Tamil Nadu
Rural Development Department,
Fort.St.George, Chennai 600 009.

2.The Commissioner of Rural Development,
and Panchayat Raj Department,
Pangal Building, Saidapet, Chennai 600 015.

3.The District Collector,
[PD] Section, Virudhunagar District,
Virudhunagar.

+2 cc to Mr.G.Thalaimutharasu , Advocate SR.No.42438,42439

+1 cc to The Special Government Pleader Sr.No.42832

nb

**COMMON ORDER MADE IN
REVIEW APPLICATION [MD].Nos.4 of 2017 and 2 of 2019
23.01.2019**