

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 02.02.2018****CORAM****THE HONOURABLE MR.JUSTICE R.SUBBIAH****Review Application No.56 of 2017****in****W.P.No.5114 of 2014**

Tamilnadu State Transport Corporation (Villupuram) Ltd.,
rep. its Managing Director,
Rangapuram, Vellore-632 009. ... Petitioner

Vs.

1.Tmt.N.Rani,
2.The Government of Tamilnadu,
rep. by its Secretary,
Transport Department,
Fort St. George,
Chennai-600 009. ... Respondents

Review Application has been filed under Order XLVII and Rule 1 of
C.P.C against the order made in W.P.No.5114 of 2014 dated 22.11.2016
passed by this Court.

For Petitioner : Mr.A.Antorny Arokia Raja
For respondents : Mr.A.Lakshmi Narashiman (For R1)
Mr.M.Elumalai, GA (For R2)

ORDER

This application has been filed seeking to review the order dated
22.11.2016 passed by this Court in W.P.No.5114 of 2014.

2.The 1st respondent herein, as the petitioner, has filed the above said writ petition in W.P.No.5114 of 2014 seeking to call for the records from the appellant herein (2nd respondent in the said writ petition) pertaining to the order in Letter No.18137/SANI.12/TNSTC(V) Ltd/Vellore Dist/2006, dated 02.06.2011 and to quash the same and consequently, to direct the State Government and the Transport Corporation to pay monthly pension, commutation amount and family pension to the writ petitioner as per the Tamil Nadu State Transport Corporation Employer's Pension Rules, without reference to the receipt of defence pension/family pension with arrears.

3.This Court, after hearing the learned counsel appearing on either side and after following the decision rendered by this Court in a similar case in **Tamil Nadu Arasu Pokkuvarathu Madurai Thozhilalar Sangam Vs. Government of Tamil Nadu** reported in **2010(2) CWC 555**, has allowed the writ petition as prayed for. The relevant portions in the order dated 22.11.2016 passed by this Court read as follows_

"5.The issue involved in this writ petition is no more *res-integra*, as the same is covered by a decision of this Court reported in 2010(2) CWC 555 (*Tamil Nadu Arasu Pokkuvarathu Madurai Thozhilalar Sangam Vs. Government of Tamil Nadu*), wherein this Court granted the relief of receiving both family

pension, but only one Dearness Allowance from either the State or Central Pension, by allowing the writ petition as prayed for therein, by following various judgments of the Supreme Court and a Division Bench of this Court. The said decision cited supra, had also been followed by this Court in W.P.No.7299 of 2013, dated 10.01.2014.

6.Hence, following the dictum laid down in the above said judgments of this Court, I am of the view that receiving pension from the Military/Army/Defence Department, is not a bar for the petitioner to receive the family pension from the second respondent-Transport Corporation. However, as observed in the said judgments of this Court, the petitioner is eligible to get Dearness Allowance only for one pension, either Military/Army Family Pension or the Family Pension of the 2nd respondent -Transport Corporation.

7.Accordingly, the present writ petition is allowed. The impugned letter is set aside. The respondents are directed to sanction and pay the Family Pension and commutation amount to the petitioner and release the amounts payable to her, with arrears, within a period of six weeks from the date of receipt of a copy of this order and the respondents shall continue to pay the monthly Family Pension so long as the petitioner is eligible to get the Family Pension. No costs. The Miscellaneous Petition is closed."

Now, the present review application has been filed by the Transport Corporation seeking to review the above said order passed by this Court.

4. Heard the learned counsel for the Transport Corporation. From a perusal of the order and the materials available on record, I do not find any error apparent on the face of the order passed by this Court. Further, it is well settled that a Review Application cannot be entertained to re-argue the grounds which were already agitated. A review is permissible only if it is shown that there is an error apparent on the face of the record or certain vital points which were agitated have not been considered in the order which is sought to be reviewed. In the present case, the Review Applicant has not satisfied the above said two aspects. In this context, useful reference can be made to the decision of the Honourable Supreme Court in the case of **(Kamlesh Verma vs. Mayawati and others)** reported in **(2013) 8 SCC 320** wherein the Honourable Supreme Court, after examining various judgments has laid down the circumstances, as to when the Court can review its own judgments. The relevant portion of the judgment is extracted as under:

"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....."

... ..

"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.

5. In the light of the above discussion, we find that the Review Applicant has not made out any ground for reviewing the order dated 22.11.2016 passed by this Court in W.P.No.5114 of 2014. Accordingly, the Review Application is dismissed. No costs.

02.02.2018

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R.SUBBIAH, J.

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