

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

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THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

Review Application No.16 of 2018

S.Sakthivelan

...Petitioner

Vs

1.The Secretary to Government,
Home (Police - IX) Department,
Fort St.George, Chennai - 9.

2.The Director General of Police,
Mylapore, Chennai - 4.

3.The Inspector General of Police,
Armed Reserve Police,
Chennai - 10.

... Respondents

PRAYER: Review application filed under Order 47 Rule I of the Code of Civil Procedure read with Section 114 of the Code of Civil Procedure against the order in W.P.No.28267 of 2006 dated 10.11.2017 passed by this Court.

For Petitioner :Mr.R.S.Anandan

For Respondents :Mr.D.Raghu,
Government Advocate**ORDER**

The learned counsel appearing on behalf of the review petitioner states that though a common order was passed in W.P.No.34160 of 2012 and

W.P.No.28267 of 2013, the factual contentions raised in W.P.No.28267 of 2013 had not been considered by this Court at the time of passing the final orders. The writ petitioner has raised independent grounds in W.P.No.28267 of 2013 and those grounds were not adjudicated on merits. In view of this factor, the present review petition is filed.

2. The learned counsel for the review petitioner states that the main contention raised in W.P.No.28267 of 2013 is that the office of the Commandant issued a show cause notice in proceedings dated 15.09.2007. However, without reference to the show cause notice and without considering the case of the writ petitioner for regulating the non employment period, the case of the writ petitioner was dealt with. The learned counsel for the petitioner states that the case of the petitioner should be considered in the light of the Fundamental Rules 54(a)(3) and accordingly, an order is to be passed by the first respondent. However, the correct provision of rules are not considered, while taking up the case of the writ petitioner. Thus, the learned counsel for the petitioner made a submission that it is suffice, if a direction is issued to the first respondent to consider the case of the writ petitioner in the light of the Fundamental Rule 54(a)(3) and an order is passed to that effect.

3. This Court is of an opinion that the grievance of the writ petitioner is that in respect of charge memo, the writ petition in W.P.No.34160 of 2012 was dismissed. However, in respect of regulation of non employment period from 10.07.1992 to 26.03.2006, the case of the writ petitioner ought to have been dealt with by considering the Fundamental Rules 54(a)(3). Thus, the present writ petition is to be considered.

4. In view of the restricted submissions made by the learned counsel for the petitioner, this Court is inclined to consider the case of the review petitioner. As stated by the petitioner, the case of the petitioner has to be considered for regulating non employment period, based on the correct provisions of Fundamental Rules with relevance to the facts and circumstances. It is for the first respondent to look into the Fundamental Rules as applicable to the case of the writ petitioner and take a decision and pass orders afresh without reference to the earlier order of this Court dated 10.11.2017 passed in W.P.No.28267 of 2013.

5. Accordingly, the order passed by this Court on 10.11.2017 only in respect of W.P.No.28267 of 2013 is set aside. Consequently, the earlier order passed by the Government, treating the non employment period as fresh appointment in G.O.(D) No.299 Home (Police IX) Department dated 10.05.2013 is quashed.

6. Accordingly the first respondent is directed to reconsider the case of the petitioner in the light of the rules as applicable with relevance to the facts and circumstances of the case of the petitioner and pass appropriate order on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order.

7. Accordingly, the review petition stands disposed of. However, there shall be no as to costs.

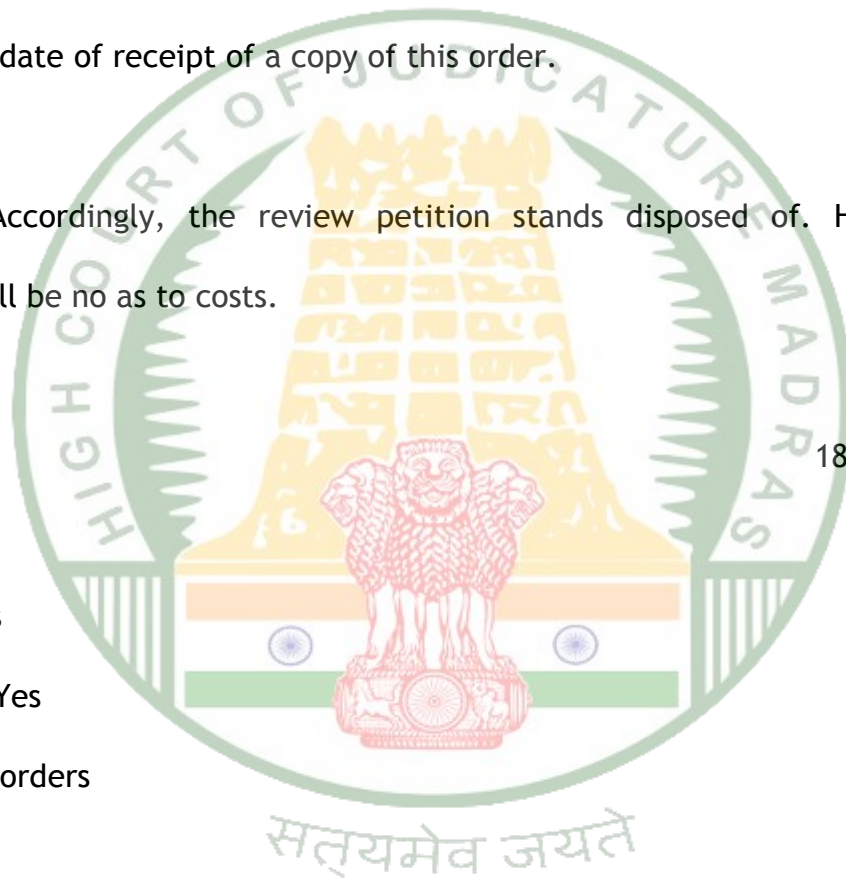
18.04.2018

Index:Yes

Internet:Yes

Speaking orders

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To

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S.M.SUBRAMANIAM J

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