



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Rev.Applc.(MD).No.33 of 2018 in
W.A.(MD).No.1420 of 2016 and
C.M.P.(MD).No.2678 of 2018

1. The State of Tamil Nadu
represented by its Principal Secretary to Government,
Home Department,
Secretariat,
Chennai.

2. The Director General of Police,
Law and Order, Santhome,
Chennai -4.

... Petitioners/Respondents

Vs.

N.Thirumal Alagu,
Inspector of Police,
Social Justice and Human Rights Unit,
Virudhunagar,
Virudhunagar District.

... Respondent/Petitioner

PRAYER : The Review Application is filed under Order 47 Rule 1 and 2 of C.P.C. r/w. Section 114 of Civil Procedure Code, against the order dated 21.11.2016 in W.A.(MD).No.1420 of 2016 and C.M.P.(MD).No.10696 of 2016.

Prayer in WA(MD)No.1420/ 2016 :

To present this Memorandum of Grounds of Writ Appeal against the order dated 22.01.2015 made in W.P.(MD)No.11948 of 2014.

Prayer in WP(MD)No.11948/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned show cause notice issued by the 2nd respondent in his proceedings in Rc.NO. 122518/Con1(2)/2012 dated 20.06.2014 and quash the same as illegal and consequentially to direct the respondents to



include the name of the petitioner in appropriate place in the panel of Inspector of Police fit for promotion to the post of Deputy Superintendent of Police for the year 2011-2012 and promote him as Deputy Superintendent of Police with continuity of service and all monetary benefits.

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For Petitioners : Mr.A.K.Baskara Pandian,
Special Government Pleader

For Respondent : Mr.M.Ajmal Khan, Senior counsel for
M/s. Ajmal Associates

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)

By consent, the Review Application is taken up for final disposal.

2. The appellants, who are the Official respondents in W.P. (MD).No.11948 of 2014 are the review applicants.

3. The respondent/writ petitioner made a challenge to the show cause notice issued by the second appellant, dated 20.06.2014, in and by which, a finding has been reached that the conclusion recorded by the Deputy Inspector General of Police is not correct and further held that the charges against the respondent has been proved and he was directed to show cause as to why any one of the penalties specified under Rule 2 of Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955, should not be imposed for the charges held proved.

4. The learned Judge, vide order dated 22.11.2016, found that the present show cause notice is one and the same arising out of the same allegation, which was the subject matter of earlier round of litigation in W.P.(MD).No.13822 of 2013 and it was allowed on 05.12.2013 and since the finality has also reached in the said order, it is also conclusive and binding, the present show cause notice is unsustainable and accordingly, quash the same. The Official respondents in the said writ petition made a challenge to the said order by filing an appeal in Writ Appeal No.1420 of 2016. This Court, vide judgment dated 21.11.2016, has recorded the finding that the order dated 05.12.2013 in W.P.(MD).No.13822 of 2013 is an inter-party judgment between the very same appellants and the respondent and the learned Judge, while setting aside the show cause notice, did not grant any liberty to the appellants to proceed further and it has also become final and for the very same cause of action, another show cause notice cannot be issued and further found that the learned Judge, on correct appreciation of facts and the legal position, rightly reached the conclusion to allow the writ



petition and stating the said reasons, dismissed the Writ Appeal. The appellants in the writ appeal, seeking review of the said judgment, filed the present review application.

5. Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the appellants has drawn the attention of this Court to the judgment rendered by the Honourable Supreme Court of India reported in **2013 (6) SCC 530 (LIC v. A.Masilamani)** and made a submission that once the order of punishment is set aside on technical ground, it should have been remanded to the disciplinary authority for fresh adjudication and since it has not been done, and taking into consideration of the said ground, a fresh show cause notice was issued and therefore, prays for reviewing of the said order.

6. Per contra, Mr.M.Ajmal Khan, learned Senior counsel appearing for the respondent would submit that the review applicants under the guise of arguing, cannot agitate the matter once again and prays for dismissal of the same.

7. This Court has carefully considered the rival submissions and perused the materials placed before this Court.

8. The judgment relied on by the learned Special Government Pleader appearing for the review applicants has also been referred to the impugned order dated 21.11.2016, in Writ Appeal (MD). No.1420 of 2016 and this Court has also found that the earlier round of litigation in W.P.(MD).No.13822 of 2013 has reached the finality and no challenge has been made to the said order and with regard to the very same allegation, the show cause notice has been issued and therefore, the learned Judge has rightly set aside the same and also confirmed the said order. This Court has also recorded the finding that it is an inter-party judgement between the very same appellants and the respondent.

9. The only point urged by the learned Special Government Pleader appearing for the appellants is that since the order of punishment has been set aside on technical ground, it is open to the Official respondents to proceed further. As already pointed out, the said order has reached the finality in the appeal and the said decision relied by the learned Special Government Pleader in **2013 (6) SCC 530 (LIC v. A.Masilamani)** has also been referred to in the present impugned judgment. It is a very settled position that under the guise of arguing the review application, which already reached the finality, cannot be reagitated afresh and the review application is not an appeal.

10. This Court is of the view that there is no error apparent on the record and as such, this Court, in exercise of the review jurisdiction, is not inclined to interfere with the impugned order passed in the writ appeal. Therefore, the review application is dismissed. However, in the circumstances of the case, there shall be



no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (AS)

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/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home Department,
Secretariat,
Chennai.
2. The Director General of Police,
Law and Order, Santhome,
Chennai -4.
3. The Inspector of Police,
Social Justice and Human Rights Unit,
Virudhunagar,
Virudhunagar District.

AKV

TE/SKN-RSK/SAR-3 : 24/04/2018 : 4P/4C

Rev.Aplc.(MD).No.33 of 2018 in
W.A.(MD).No.1420 of 2016 and
C.M.P.(MD).No.2678 of 2018
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