

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Rev.Appl. No.15 of 2019
in
W.A.No.2391 of 2018

M.Manoharan

.. Appellant

Vs.

1. The Advocate General,
High Court of Madras,
Chennai - 600 104.
 2. Thiru. Atulya Misra, I.A.S.,
Former Principal Secretary/Commissioner of Revenue Administration,
Presently working as Principal Secretary, Revenue Department,
Fort St.George, Secretariat,
Chennai - 600 009.
 3. Thiru. S.Palanisamy, I.A.S.,
Formerly District Collector, Nagapattinam,
Formerly Deputy Secretary,
Animal Husbandry and Veterinary Department,
Fort St.George, Secretariat,
Chennai - 600 009,
Now working as Director of Town Panchayats,
Kuralagam, Chennai - 600 108.
- .. Respondents

* * *

Prayer : Review Application No.15 of 2019 filed under Order XLV Rule 1 read with Section 114 of C.P.C. seeking to review the order in dated 31.10.2018 in W.A.No.2391 of 2018 passed by the Division Bench of this court.

* * *

For Applicant : Ms.D.Malarvizhi

For Respondents : Mr.P.P.S.Sivashanmugha Sundaram

* * *

J U D G M E N T

[Judgment of the Court was delivered by T.S.Sivagnanam, J.]

Heard Mrs.D.Malarvizhi, learned counsel appearing for the review applicant and Mr.P.P.S.Sivashanmugha Sundaram, learned Special Government Pleader appearing for the respondents.

2. This review application has been filed to review the judgment and order dated 31.10.2018 in W.A.No.2391 of 2018.

3. The said appeal was filed challenging the order passed in W.P.No.8878 of 2018, which was dismissed by order dated 12.04.2018. The applicant filed the said writ petition praying for two reliefs namely, to quash the order passed by the learned Advocate General in contempt petition No.4 of 2017 dated 04.12.2017, seeking permission to initiate criminal contempt against Mr.Atulya Mishra, I.A.S., Former Principal Secretary/Commissioner of Revenue Administration and for another relief as against Principal Secretary to

quash the order passed by him on 18.02.2016, being contrary to the directions issued in W.P.No.22402 of 2011 dated 21.02.2012.

4. The writ petition was dismissed by order dated 12.04.2018. On a perusal of the order, we find that the discussion pertains to as to whether the criminal contempt was liable to be initiated against the Principal Secretary to Government. There appears to be no specific finding, as regards correctness of the order dated 18.02.2016, whereunder, the Principal Secretary/second respondent had rejected the inclusion of applicant's name in the panel of Deputy Tahsildar for the year 2009. However, the applicant has filed a separate W.P.No.10111 of 2016, challenging the proceedings of the second respondent dated 18.02.2016 and the same is pending.

5. The Division Bench while testing the correctness the order dated 12.04.2018 took note of the findings recorded by learned Single Judge in paragraph 5 & 6 of the impugned order and held that nothing survives for consideration in the writ appeal. With regard to the petitioner's claim for promotion/inclusion in the panel of Deputy Tahsildar for the year 2009. The Division Bench left it open to enable the appellant to pursue his representation.

6. It appears that it was not placed before the Hon'ble Division Bench that already W.P.No.10111 of 2016 was pending, challenging the order dated 18.02.2016 denying inclusion of the applicant's name in the panel of Deputy Tahsildar for the year 2009.

7. Be that as it may, the question would be as to whether there is any error in the judgment and order passed by the Division Bench. We have perused the grounds of review filed in this application and we find that there is no allegation of any error, which is apparent on the face of the record. It is the settled legal position that a review application is not an appeal in disguise. Therefore unless and until, there is an error apparent on the face of the record, the question of review does not arise. Therefore, we are of the considered view that review application cannot be entertained.

8. We have seen the relevant papers which have been placed before us and we find that the application has been litigating, seeking to protect the service rights and benefits ever since 2009. More than once the applicant has been successful before this Court. In the interregnum, on the ground of unauthorized absence the applicant herein was terminated. However, the same

was rightly set aside by the Principal Secretary and the Commissioner of Revenue Administration by order dated 23.03.2018. The applicant is aggrieved by not being granted promotion at the appropriate time placing him in the panel of Deputy Tahsildar for the year 2011.

9. However, considering the fact that we are hearing a review application, we cannot go into those aspects raised by the learned counsel for applicant and all that we can do to direct the Registry to list the writ petition, which is now pending before this Court, at an earlier date for the above reasons.

10. This Review application is dismissed. Registry is directed to list the W.P.No.10111 of 2016 before the appropriate Court during the week commencing 24.06.2019. Considering the long term litigation, we request the learned Single Judge to give priority to the writ petition.

WEB COPY

(T.S.S., J.) (M.K.K.S., J.)
07.06.2019

mp/ska

T.S.SIVAGNANAM, J.
and
K.KALYANASUNDARAM, J.

mp/ska

1. The Advocate General,
High Court of Madras,
Chennai - 600 104.
2. Thiru. Atulya Misra, I.A.S.,
Former Principal Secretary/Commissioner of Revenue Administration,
Presently working as Principal Secretary, Revenue Department,
Fort St.George, Secretariat,
Chennai - 600 009.
3. Thiru. S.Palanisamy, I.A.S.,
Formerly District Collector, Nagapattinam,
Formerly Deputy Secretary,
Animal Husbandry and Veterinary Department,
Fort St.George, Secretariat,
Chennai - 600 009,
Now working as Director of Town Panchayats,
Kuralagam, Chennai - 600 108.

सत्यमेव जयते

Rev.Appl. No.15 of 2019 in
W.A.No.2391 of 2018

WEB COPY

07.06.2019