

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Review Application No.11/2019

1 The Director General of Police
Kamarajar Salai
Chennai 600 004.

2 The Superintendent of Police
Dharmapuri District
Dharmapuri.

3 The Inspector of Police
Morappur Police Station
Dharmapuri District.

4 The Member Secretary
Tamil Nadu Uniformed Services
Recruitment Board
No.807, PT Lee Chengalvaraya
Naicker Maligai, Anna Salai
Chennai 600 002.

Applicants /
Appellants

Versus

A.Parthiban

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Respondent / Respondent /
Writ Petitioner

Prayer:- Review Application filed Order 47 Rule 1 and 2 read with
section 114 CPC to review the order dated 25.04.2018 made in
WA.No.613/2018.

For Applicants/Petitioners : Mrs.Narmadha Sampath
Additional Advocate General
assisted by
Mr.E.Manoharan, AGP

For Respondent : Mr.S.Ramachandran

ORDER

[Judgment of the Court was delivered by M.DHANDAPANI, J.,]

By consent, the review application is taken up for final disposal and is disposed of by this order. Mr.S.Ramachandran, learned counsel accepts notice on behalf of the respondent.

2 Since the facts leading to the litigation have been narrated in detail and in extenso in the order dated 02.08.2017 made in WP.No.23104/2012 as well as in the Judgment passed in WA.No.613/2018 dated 25.04.2018, it is unnecessary to restate the facts once again.

3 Heard Mrs.Narmadha Sampath, learned Additional Advocate General assisted by Mr.E.Manoharan, learned Additional Government Pleader appearing for the petitioners/appellants in the writ appeal and Mr.S.Ramachandran, learned counsel appearing for the respondent/writ petitioner and perused the materials placed before it.

4 The writ petitioner filed WP.No.23014/2012 seeking for

issuance of a writ of certiorarified mandamus to quash the impugned order dated 27.04.2011 passed by the 1st respondent, rejecting the candidature of the writ petitioner with a further direction to the 4th respondent to appoint the writ petitioner for the post of Constable Grade-II in the available vacancy. The said writ petition, after contest, came to be allowed by the learned Single Judge on 02.08.2017 by setting aside the order of the 1st respondent dated 27.04.2011 with a further direction to the 1st respondent to appoint the writ petitioner as Constable Grade-II on the basis of the selection conducted during the year 2010 and to award all attendant benefits like seniority, continuity of service etc.

5 On appeal by the Department/official respondents, a Division Bench of this Court had dismissed the writ appeal vide judgment dated 25.04.2018 in WA.No.613/2018 and to review the said judgment, the present review petition is filed by the official respondents.

6 A perusal of the order in WP.No.23014/2012 dated 02.08.2017 as well as the judgment dated 25.04.2018 made in WA.No.613/2018 would reveal that very same arguments, as advanced before this Court in this review, have been advanced by the learned Additional Advocate General appearing for the official

respondents/petitioners herein, by stating that the writ petitioner had suppressed the very factum of his involvement in criminal cases registered by Morappur Police Station in Cr.No.83/2009 and Cr.No.84/2009 in his application submitted for the appointment to the post of Police Constable Grade-II and that the said suppression of facts, defeats the very purpose of appointing genuine persons in the said post. The learned Additional Advocate General also made a submission that both the learned Single Judge as well as the Division Bench had not taken into consideration the relevant Government Rules and the Government Orders.

7 A thorough scrutiny of the typed set of documents, including the affidavit filed by the writ petitioner in the writ petition ; order dated 02.08.2017 made in WP.No.23104/2012 as well as the impugned judgment dated 25.04.2018 and the copies of the FIRs filed in the criminal cases as well as the Report of the Revenue Divisional Officer, Harur dated 14.10.2009, would reveal that the respondent herein/writ petitioner was not aware of the criminal case registered against him in Cr.No.83/2009 as, at later point of time it came to light that on account of the insistence of the first accused, the name of the writ petitioner came to be included and that subsequently, his name has been deleted in the FIR. Further, as regards Cr.No.84/2009, the said complaint was closed, as compromise had arrived at between both

parties and in that complaint also, the writ petitioner/respondent herein has not received any summons to attend the meeting convened by the Revenue Divisional Officer. Hence, it is seen that the respondent herein/writ petitioner had no knowledge at all about the criminal cases and if at all he had the knowledge of the same, definitely he might have specifically mentioned in the application submitted by him.

8 It is relevant to extract Order 47 Rule 1 CPC:-

ORDER 47 RULE 1
APPLICATION FOR REVIEW OF JUDGMENT

SCOPE OF POWER OF REVIEW:-

The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1. The power of review may be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of Appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court.

The mere possibility of two views on the subject is not a ground for review. The power of review can be exercised for correction of a mistake and not to substitute a view. The review cannot be treated as an appeal in disguise.

When a review petition is entertained and notice is issued by a Court it is open to it to restrict

the scope of hearing but once the petition is heard and the Court is satisfied that the order under review was erroneous at the face of it then it is not precluded from allowing the petition and setting aside the findings which were earlier not permitted to be reopened."

9 The scope of review is very limited and the Court can interfere with the order/judgment only if there is an error apparent on the face of the record and that the decision was erroneous. The appellants, under the guise of reviewing the judgment, cannot re-argue or raise a new ground to interfere with the judgment rendered. This Court is of the considered view that both the learned Single Judge as well as the Division Bench had elaborately dealt with the case of the writ petitioner and had arrived at the right conclusion in appointing him to the post of Constable Grade II and granting the consequential reliefs. This Court cannot re-appreciate the evidence and the review is not an appeal in disguise.

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10 In the result, the review application stands dismissed. No costs.

[MSNJ]

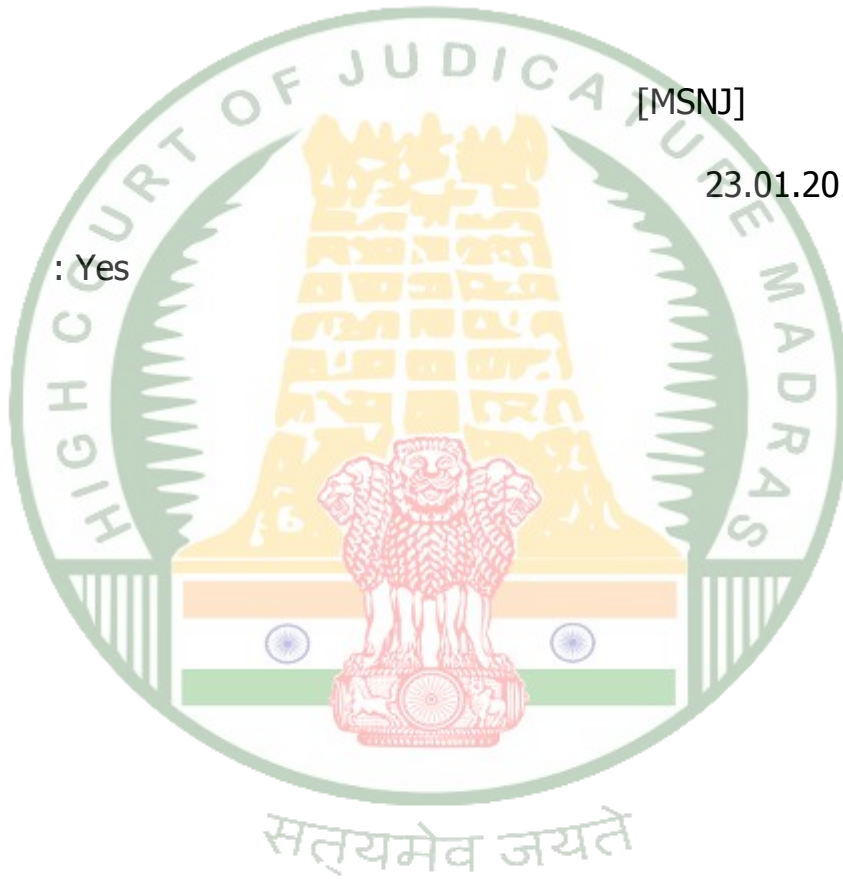
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23.01.2019

Internet : Yes

AP

To



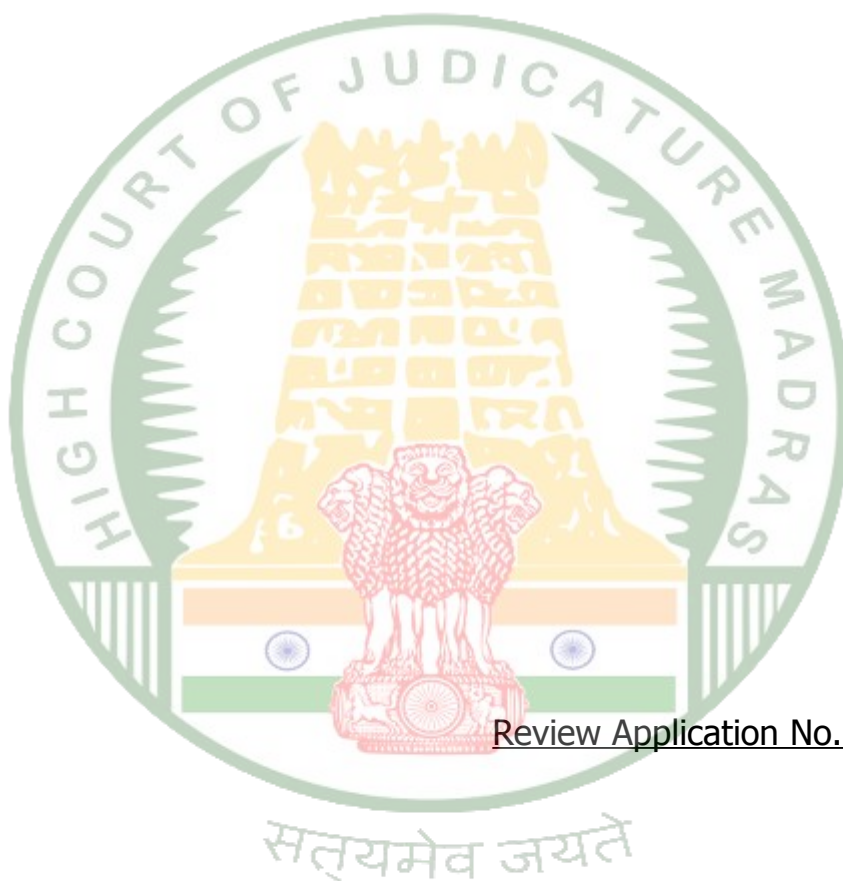
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M.SATHYANARAYANAN, J.,

AND

M.DHANDAPANI, J.,

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