

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29-09-2020

Coram:

**THE HONOURABLE MR. JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS. JUSTICE T. KRISHNAVALLI**

Review Application (Writ) No. 101 of 2020

The High Court of Judicature at Madras
rep. by its Registrar General
Chennai - 600 104

.. Review Applicant

Versus

Priyadarshini

.. Respondent

Review Application filed under Order XLVII Rule 1 read with Section 114 of the Code of Civil Procedure to review the order dated 25.11.2019 passed in WP No. 28945 of 2019

For Review Applicant : Mr. C.T. Mohan
For Respondent : Mr. S. Ayyathurai

JUDGMENT

(Judgment of the Court was delivered by **R.Subbiah,J**)

This Review Application is filed to review the Order dated 25.11.2019 passed by us in WP No. 28945 of 2019. By the order dated 25.11.2019, which is sought to be reviewed, we have allowed the writ petition filed by the respondent herein and issued the following directions to the Review Application:-

7. Heard both sides and perused the materials available on record.

8. We find from a perusal of the impugned order that the respondent has failed to consider the indigent circumstances of the petitioner. The application of the petitioner seeking appointment on compassionate grounds, was rejected mainly on the ground that she was minor and the application was not submitted within three years from the date of the death of her father. We find that she has submitted the application six months prior to her attaining majority. Therefore, within a reasonable time, she has submitted the application and after attaining majority, she has also made a representation, dated 06.03.2019.

9. In similar circumstances, this Court (Madurai Bench) in W.A.(MD).No.1400 of 2011 (S.Velraj Vs. The Superintendent Engineer, Tamil Nadu Electricity Board, Tirunelveli Electricity Distribution Circle, Tirunelveli), by order dated 16.12.2015 and in another judgment of this Court (Madurai Bench) reported in 2016 (5) CTC 125 (The Inspector General of Prisons Vs. P.Marimuthu), observed that the appointment on compassionate grounds had to be given considering the facts and circumstances of each case and therefore, the three-year limitation period cannot be applied as a straight-jacket formula and each and every case has to be approached differently based on the facts.

10. In the instant case, the factual aspects of the matter show that the petitioner has become orphan and her grandfather, under whom she is in the custody, is an age-old person and that the petitioner has also produced necessary documents to show that she has no sufficient funds to sustain herself.

11. Considering all the above aspects, we are of the opinion that this is a fit case to quash the impugned order. Accordingly, the impugned order is quashed. The Writ Petition is allowed as prayed for. The respondent is directed to give suitable employment to the petitioner commensurate with her educational qualification on compassionate grounds. No costs.

2. The learned counsel appearing for the Review Applicant would contend that subsequent to the order dated 25.11.2019, which is sought to be reviewed, the Full Bench of this Court pronounced the Judgment in WP (MD) No. 7016 of 2011 dated 11.03.2020 wherein it was held that an application received beyond the period of three years needs no consideration and such application has to be rejected. The learned counsel would therefore contend that in the light of the Full Bench decision of this Court referred supra, the order dated 25.11.2019 passed by us in WP No. 28945 of 2019 requires to be reviewed.

3. We are unable to accept the submission of the learned counsel for the Review applicant. If the argument of the learned counsel is accepted, placing reliance on the judgment which was subsequent to the order passed by us in the above writ petition, then there will not be any end in sight to a litigation. Even though there is no dispute with respect to the ratio laid down by the Full Bench of this Court, it will not be a ground for us to review the order dated 25.11.2019. In fact, in the order dated 25.11.2019 passed in WP No. 28945 of 2019, we have considered in detail as to the effect of the application submitted by the respondent herein seeking appointment on compassionate grounds. In any event, the subsequent Judgment pronounced

by the Full Bench of this Court cannot be a ground to review the order dated 25.11.2019. Except this submission, the learned counsel for the review applicant did not raise any other grounds in this Review Application for our consideration.

4. It is well settled that when there is no error apparent on the face of the records, a Review Application is not maintainable. In this context, we are fortified by the decision of the Honourable Supreme Court in (**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 XLVII 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. Applying the aforesaid decision of the Honourable Supreme Court to the facts of this case, we find that there is no error apparent on the face of the order under review. We are also of the view that the present Review Application is nothing but an attempt to re-argue the case, which is legally impermissible. We therefore decline to review the order dated 25.11.2019 passed in WP No. 28945 of 2019. The Review Application is dismissed. No costs.

(R.P.S.J.) (T.K.J.)

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Speaking Order: Yes / No

Internet: Yes / No

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R. SUBBIAH, J
and
T. KRISHNAVALLI, J

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