

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2020

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HON'BLE Ms.JUSTICE P.T.ASHA

Rev.Apln.No.204 of 2019

1.The Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.

3.The Joint Director of School
Education (Secondary Education),
DPI Campus, College Road,
Chennai-600 006.

4.The District Educational Officer,
Chennai North, Egmore,
Chennai-600 008.

.. Review Applicants / Appellants

vs.

1.M.S.Sivakumar

2.The Correspondent,
Sir M.T.M. Hr.Sec. School,
Purasawalkam, Chennai-600 084.

.. Respondents

Prayer: Review Application filed under Order 47, Rule 1 & 2 C.P.C. read with Section 114 C.P.C. to review the order dated 17.07.2019 made in W.A.No.2218 of 2019.

For Review Applicants : Mr.C.Munusamy
Additional Government Pleader

For Respondents : Mr.C.Selvaraj,
for M/s.C.Johnson for R1

ORDER

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

The official respondents in W.A.No.2218 of 2019 are the review applicants herein. The present review application is filed to review the judgment dated 17.07.2019 made in the said writ appeal.

2. Facts leading to the present round of litigation have been narrated in detail and in extenso in the order dated 08.03.2018 made in W.P.No.7949 of 2011, which was the subject matter of writ appeal in W.A.No.2218 of 2019 and for the sake of brevity, it is unnecessary to restate the facts once again.

3. The first respondent herein filed W.P.No.7949 of 2011 praying for a Writ of Certiorarified Mandamus to quash the proceedings dated 11.01.2010

on the file of the second applicant herein and direct the official respondents/appellants/applicants herein to regularize the service of the petitioner as Secondary Grade Teacher with effect from 09.08.1993 or in the alternative to approve the appointment with effect from 01.06.1994, following the expiry of re-employment period of one Thiru T.K.Govindarajan (31.05.1994) and to give, seniority, monetary and other consequential benefits. Learned Single Judge of this Court, vide order dated 08.03.2018, has allowed the writ petition as prayed for and also stipulated outer time limit to comply with the said directions.

4. The official respondents, aggrieved by the allowing of the writ petition, filed W.A.No.2218 of 2019. When the writ appeal was listed for admission on 17.07.2019, learned Government Advocate, who appeared for the appellants made a submission that the management of Sir M.T.M. Hr.Sec. School, Purasawalkam, Chennai-600084 / second respondent herein have filed an appeal in W.A.No.203 of 2019 challenging the very same order and vide judgment dated 28.01.2019, the said writ appeal came to be dismissed with costs and taking note of the said submission, the Division Bench of this Court has dismissed the writ appeal by observing that the order impugned in

the appeal has already been confirmed by the Division Bench in W.A.No.203 of 2019 and therefore, there is no question of considering the issue once again at the instance of the Government. The present review application is filed by the appellants in the writ appeal to review the said judgment.

5. Mr.C.Munusamy, learned Additional Government Pleader appearing for the review applicants has invited the attention of this Court to the judgment dated 28.01.2019 made in W.A.No.203 of 2019, especially to Paragraph No.12 of the said judgment and would submit that the writ appeal came to be dismissed primarily for the reason that in the operative portion of the order, no adverse order has been passed against the second respondent / School Management and that the fifth respondent namely, the District Educational Officer, Chennai (North), Egmore, Chennai -600 008 has appointed the first respondent herein and he has also been given promotion based upon his performance and however, the Management of the School thought fit to file writ appeal. The primordial submission made by the learned Additional Government Pleader appearing for the review applicants is that since merits of the matter have not been gone into, there is an error apparent on the face of the record and therefore, the applicants are constrained to file this present review application.

6. *Per contra*, Mr.C.Selvaraj, learned counsel assisted by Mr.C.Johnson, learned counsel appearing for the first respondent/writ petitioner would submit that in the light of the dismissal of W.A.No.203 of 2019, vide judgment dated 28.01.2019, in respect of which no review application has been filed, the present review application is not at all maintainable. The learned counsel appearing for the first respondent would further add that the scope of review application is very limited and under the guise of arguing the review application, the learned Additional Government Pleader appearing for the review applicants wants to re-argue the matter afresh and prays for dismissal of this review application with costs.

7. This Court has carefully considered the rival submissions and also perused the entire materials placed before it.

8. As rightly pointed out by the learned Additional Government Pleader appearing for the review applicants, this Court, while dismissing W.A.No.203 of 2019 with costs, vide judgment dated 28.01.2019, have not gone into the merits of the case and impressed upon the point that the second

respondent/School Management have not been aggrieved by the said order and that apart, it is brought to the knowledge of this Court that the Division Bench, not had an opportunity to peruse and consider the said matter and merely went by the submission of the learned Government Advocate who appeared for the appellant in W.A.No.2218 of 2019.

9. In the light of the above facts and circumstances, this Review Application is allowed and the judgment dated 17.07.2019 made in W.A.No.2218 of 2019 is set aside. The writ appeal is to be heard afresh and it is open to the respective learned counsel appearing for the parties in the writ appeal to urge/raise all points available to them under law. No costs.

[M.S.N., J.] [P.T.A., J.]
11.02.2020

Index : Yes / No
Internet : Yes / No
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