



Rev.Appln.No.135 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
09.11.2022	29.11.2022

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN
and
THE HON'BLE MRS. JUSTICE N.MALA

Review Application No.135 of 2022
in W.A.No.813 of 2022 against
W.P.No.16187 of 2016

Arul Kumar @ Arun Kumar

... Review Petitioner/ Appellant

VS.

1.The Chief Engineer (Personnel),
TNEB, Anna Salai,
Chennai – 2.

2.The Superintendent Engineer,
Perambalur Electricity Distribution Circle,
Perambalur Post,
Trichy District.

... Respondents/Respondents

Prayer: Review Application filed under Order 47 Rule 1 of C.P.C., to review the order dated 04.04.2022 passed in Writ Appeal No.813 of 2022 confirming the order dated 30.08.2017 passed by the learned Single Judge in W.P.No.16187 of 2016.



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For Review Petitioner : Mr.P.I.Thirumoorthy

For Respondents : Mr.P.Subramanian
Standing Counsel

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J U D G M E N T

The Review Application is filed to review the order dated 04.04.2022 passed in Writ Appeal No.813 of 2022 confirming the order dated 30.08.2017 passed by the learned Single Judge in W.P.No.16187 of 2016.

2.The petitioner filed a writ petition for a Writ of Certiorarified Mandamus to quash the order dated 05.11.2013 and consequently direct the first respondent to consider his claim for compassionate appointment. The said writ petition was dismissed by the learned Single Judge and thereafter the petitioner preferred a Writ Appeal in W.A.No.813 of 2022, which was also dismissed on 04.04.2022, confirming the order of the learned Single Judge.

3.The case of the petitioner was that he was a second son of the



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deceased P.Ponnusamy, who died in harness on 21.03.1994. On his death the petitioner's mother applied for compassionate appointment in the year 1997 and as she was informed that she was not eligible for compassionate appointment, she made an application for compassionate appointment for her first son on 02.01.1998. As the petitioner's brother was not interested in pursuing the application, the petitioner made an application on 31.08.2013 for compassionate appointment for himself.

4.The respondent Board rejected the petitioner's application for compassionate appointment on the ground of delay. In the writ petition filed by the petitioner the learned Single Judge confirmed the respondents rejection order and thereafter the petitioner preferred the appeal in W.A.No.813 of 2022. The said Writ Appeal was dismissed on the ground of delay of 19 years in making the third application for compassionate appointment. The petitioner has now filed a Review Application to review the said Judgment.

5.It is seen from the grounds of review that the petitioner has filed the review petition on the ground that the Hon'ble Division Bench of the



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Madurai High Court in W.A.(MD).No.1478 of 2017 dated 12.03.2021 relying on G.O.Ms.No.1579 Labour and Employment Department dated 21.07.1981 granted relief to the legal heir of the deceased employee therein and the respondent therein also complied with the order. The revision petitioner also relied on a Judgment of the present Division Bench in W.A.No.669 of 2022 dated 29.04.2022 and submitted that on the principles of equality the said Judgments should be applied to his case. The other ground raised in the Review Application are similar to the grounds raised in the writ petition. Though G.O.Ms.No.1579 Labour and Employment Department dated 21.07.1981 was not particularly referred to in the writ petition, the sum and substance of the petitioner's contention before the Writ Court, Writ Appellate Court and as also in the present Review Petition is that the Rules which were in operation at the time of the death of the petitioner's father alone would apply.

6.It is now fairly well settled by a series of decision's of this Hon'ble Court as also the Hon'ble Supreme Court that the scope of review is very minimal and it is circumscribed by the provisions of the statute. It would be relevant to refer to few Judgments of this Hon'ble Court as also the Hon'ble



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Supreme Court to understand and appreciate the scope of review jurisdiction to find out if the petitioner has made out a case for reviewing the order dated 04.04.2022 in W.A.No.813 of 2022. The Hon'ble Division Bench of this Court in the case of ***The Special Officer, Kallal Co-operative Primary Agricultural and Rural Development Bank Ltd., Karaikudi, Sivagangai District Vs. R.M.Rajarathinam and Others [Review Application (MD). No.82 of 2013]*** decided on 04.02.2015. It was held as follows:

“10... It is well settled that the scope of review is very limited. The review applicant cannot re-argue and he is not entitled for re-hearing on merits.”

7.In another decision of the Division Bench of this Court in the case of ***Dhanalakshmi Vs. M.Shajahan and others*** reported in ***AIR 2004 Madras 512***, it was opined that the power of review is not an appeal in disguise. The relevant paragraphs of the said order are extracted below:

"11. From the above judgments, it is seen that the law is well settled inasmuch as the power of review is available only when there is an error apparent on the face of the record and not on erroneous decision. If the parties



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aggrieved by the judgment on the ground that it is erroneous, remedy is only questioning the said order in appeal. The power of review under Order 47 Rule 1 C.P.C. may be opened inter alia only if there is a mistake or an error apparent on the face of the record. The said power cannot be exercised as is not permissible for an erroneous decision to be "reheard and corrected". A review application also cannot be allowed to be "an appeal in disguise". Similarly, the error apparent on the face of the record must be such an error, which must strikes one on mere looking at record and would not require any long drawn process of reasoning on points, where there may conceivably be two opinions."

8. Furthermore, in ***R.Mohala Vs. M.Siva and others*** in ***Review Petition No.61 of 2018 and WMP.No.10818 and 10819 of 2018*** decided on ***25.04.2018***, one of us (SVNJ) elaborately discussed the scope of review and in Paragraph Nos.7 and 8, held as follows:

"7.The basic principle to entertain the review under



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Order 47 Rule 1 C.P.C. is to correct the errors but not to substitute a view. The judgment under review cannot be reversed (or) altered taking away the rights declared and conferred by the Court under the said judgment; once a judgment is rendered, the Court becomes functus officio and it cannot set aside its judgment or the decree; no inherent powers of review were conferred on the Court; the review Court cannot look into the trial Court judgment; it can look into its own judgment for limited purpose to correct any error or mistake in the judgment pointed out by the review petitioner without altering or substituting its view in the judgment under review; the review court cannot entertain the arguments touching the merits and demerits of the case and cannot take a different view disturbing the finality of the judgment; the review cannot be treated as appeal in disguise, as the object behind review is ultimately to see that there should not be miscarriage of justice and shall do justice for the sake of justice only and review on the ground that the judgment is erroneous cannot be sustained.

8. It is settled law that even an erroneous decision



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cannot be a ground for the Court to undertake review, as the first and foremost requirement of entertaining a review petition is that the order under review of which is sought, suffers from any error apparent on the face of the order and in absence of any such error; finality attached to the judgment/order cannot be disturbed.”

9.The Hon'ble Supreme Court in the case of **Meera Bhanja Vs. Nirmala Kumari Choudhury** reported in **(1995) 1 SCC 170**, while considering the scope of the power of review of the High Court under Order 47, Rule 1, C.P.C., held as follows:

"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 C.P.C. The review petition of error apparent on the face of the record and not on any other ground. An error apparent on the face of the record must be such an error which must strike one on mere looking at the record and would not require any longdrawn process of reasoning on points where there may conceivably be two opinions. The limitation of powers on court under Order 47, Rule 1, C.P.C. is similar to jurisdiction available



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to the High Court while seeking review of the orders under Article 226."

10.In the case in ***Parsion Devi Vs. Sumitri Devi***, reported in **1997 (8)**

SCC 715, the Hon'ble Apex Court held as follows:

"Under Order 47, Rule 1, CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review under Order 47, Rule 1, CPC. In exercise of the jurisdiction under Order 47, Rule 1, CPC, it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise."

11.From a reading of the above referred Judgments it can be fairly discerned that:



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1.Review is not an appeal in disguise.

2.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 C.P.C.

3.A wrong exposition of the law or a wrong application of the law and failure to apply the correct law cannot be a ground for review.

4.The power to review is a restricted power given through a Court to go through the Judgment only to correct it or improve it, on the basis of some material which ought to have been considered, escaped consideration or failed to be placed before it for any other reason, but not to substitute a fresh or a second Judgment.

5.The power of review cannot be invoked to correct the erroneous Judgment and the finality attached to a Judgment cannot be disturbed.

6.Only errors which are apparent on the face of the record in the sense that errors which strike on mere



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*looking at record can only be corrected and not those that
require long drawn process of reasoning on point.*

12.The above are some of the basic principles on which the power to review rests. The said principles are not exhaustive but only illustrative.

13.To review a Judgment/Order the petitioner needs to satisfy three basic requirements of Order 47 Rule 1 of C.P.C., which are as under:

- (i) From discovery of new and important matter or evidence which after exercise of due diligence was not within his knowledge (or) could not be produced by him at the time when the decree was passed (or) order made;
- (ii) There is some mistake (or) error apparent on the face of the record in the judgment under review; and
- (iii) or any other sufficient reasons.

14.In the present case the only ground on which the review petition is filed to apply the Judgments in W.A.(MD).No.1478 of 2017 dated 12.03.2021 and W.A.No.669 of 2022 dated 29.04.2022 to supposedly ensure



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equality. The said ground in our considered opinion is beyond the scope of the provisions of Order 47 Rule 1 CPC and the law laid down by the Hon'ble Supreme Court and the Hon'ble High Court. The petitioner in the guise of the Review Petition wants this Hon'ble Bench to re-write it's Judgment, which is not possible under review jurisdiction. As already stated above review is not an appeal in disguise.

15.Even on merits we find that the facts of the present case are completely different from the facts in the Judgments which the petitioner relies on. In both the said Writ Appeals, the mother of the petitioner initially made an application for employment for herself and thereafter for one of the legal heirs. As the application was rejected proceedings were initiated against the rejection order which culminated in the order in Writ Appeals.

16.The facts of the present case are different in the sense that the first application was filed by the petitioner's mother but as she was not given an appointment, she had made a second application for her elder son which he did not pursue and so the petitioner made the third application. Hence this a case of repeated applications for compassionate appointment by each



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member of the family. Further the petitioner did not explain the inordinate delay of 19 years in making the application for compassionate appointment.

Therefore this Hon'ble Court rightly held that the petitioner was not entitled for the relief claimed in the writ petition. For all the above reasons we find no merits in the review application and the same deserves to be dismissed.

17.Accordingly, this Review Petition stands dismissed.

[S.V.N.,J.] [N.M.,J.]
29.11.2022

Index: Yes / No
Internet:: Yes / No
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To:

- 1.The Chief Engineer (Personnel),
TNEB, Anna Salai,
Chennai – 2.
- 2.The Superintendent Engineer,
Perambalur Electricity Distribution Circle,
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Trichy District.



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S.VAIDYANATHAN, J.
&
N.MALA, J.

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PRE DELIVERY ORDER
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