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Rev.Appln.No.170 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN
and
THE HON'BLE MR.JUSTICE C.SARAVANAN

Review Application No.170 of 2021
in
W.A.No.2133 of 2021

1. The Chairman,
Teachers Recruitment Board,
4th Floor, EVK Sampath Building,
College Road, Chennai-600 006.

2. The Member Secretary,
Teachers Recruitment Board,
4th Floor, EVK Sampath Building,
College Road, Chennai-600 006.

... Review Applicants/Appellants 1 & 2

-VS-

1. V.Lakshmikandhan

... Respondent/1st Respondent

2. The Chairman,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town, Chennai-600 003.

... Respondent/2nd Respondent

3. The Secretary to Government,
Department of Higher Education,
State of Tamil Nadu,
Fort St.George, Chennai-600 009.

... Respondent/3rd Appellant

Prayer: Review Application filed under Order 47 Rule 1 r/w Section 114 of C.P.C.,
to review the judgment dated 01.09.2021 passed in W.A.No.2133 of 2021.



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For Applicants : Mr.Sajeev Kumar
Spl. Govt. Pleader

For R1 : Party-in-person
For R3 : Mr.C.Jaya Prakash
Govt. Advocate

J U D G M E N T

The Review Application has been filed to review the judgment dated 01.09.2021 passed in W.A.No.2133 of 2021.

2. The Writ Petitioner / 1st Respondent herein filed a writ petition for a Writ of Certiorarified Mandamus for re-valuation of the OMR sheet in accordance with the answer key claimed by the petitioner. The said writ petition was allowed by the learned Single Judge and thereafter, the Writ Appeal filed by TRB / State in W.A.No.2133 of 2021 was dismissed on 01.09.2022, confirming the order of the learned Single Judge.

3. It is seen from the grounds of review that the Review Applicants filed the review petition on the following grounds:

- i) that there was no proper appreciation of grounds raised in the Writ Appeal and the Writ Petitioner misled the Court and obtained the order;
- ii) that the report of TNPSC as if the claim of the Writ Petitioner was



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accepted by the TRB's experts was baseless and the report of TNPSC was just a recommendation duly not supported by any relevant proof or evidence;

iii) that the report of TNPSC was one sided and was outcome of the representation and evidences submitted by the Writ Petitioner;

iv) that the final key was published after getting confirmation from the Higher Authorities and after the exercise of due diligence of the Scrutiny Committee's report

4. 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 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 01.09.2021 in W.A.No.2133 of 2021. A 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, held as follows:

“10... It is well settled that the scope of review is very



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limited. The review applicant cannot re-argue and he is not entitled for re-hearing on merits.”

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5. 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 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.”

6. 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 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



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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 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.”

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

8. In the case in **Parsion Devi Vs. Sumitri Devi**, reported in **1997 (8) SCC 715**, the Hon'ble Apex Court held as follows:



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"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."

9. From a reading of the above referred Judgments, it can be fairly discerned

that:

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

10. The above are some of the basic principles on which the power to review



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rests. The said principles are not exhaustive but only illustrative.

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11. To review a Judgment / Order, the Applicants need 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.”

12. In the present case, the core ground raised on which the review petition rests is that the Appellate Court rendered its verdict on the basis of the report of TNPSC, ignoring the fact that the said report was only recommendatory in nature so as to upset the opinion of the experts. 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 Review Applicants in the guise of the Review Petition want this Bench to re-write it's Judgment, which

S.VAIDYANATHAN, J.

&

C.SARAVANAN, J.

asr/ar

is not possible under review jurisdiction. As already stated above review is not an appeal in disguise and there is no error apparent on the fact of the record. Therefore, the Division Bench rightly confirmed the order of the learned Single Judge, which



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does not warrant any review. For all the above reasons, we find no merits in the review application and the same deserves to be dismissed.

13.Accordingly, this Review Petition stands dismissed.

[S.V.N.,J.] [C.S.N,J.]
31.10.2022

Index: Yes / No
Internet: Yes / No
asr/ar

To

1. The Secretary to Government,
Department of Higher Education,
State of Tamil Nadu,
Fort St.George, Chennai-600 009.
2. The Chairman,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town, Chennai-600 003.

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