



Review Application (Writ) No.28 of 2012
Against W.P.No.4278 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**Review Application (Writ) No.28 of 2012
Against
W.P.No.4278 of 2006 (T)
(O.A.No.5597 of 1998)**

N.Gopalan

... Petitioner

Vs.

1.The Secretary to the Government,
Labour and Employment Department,
Fort St.George,
Chennai 600 009.

2.The Joint Director of Employment,
Office of the DET,
Guindy,
Chennai 600 032.

3.The Director of Employment and Training,
Office of the DET,
Guindy,
Chennai 600 032.

... Respondents

Prayer:

Review application filed under Order 47 Rule 1 r/w.114 of Civil Procedure Code praying to review the order passed in W.P.No.4278 of 2006 dated 17.09.2009.



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For Petitioner : Mr.Karthik Mukundan
For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

This review application has been filed to review the order dated 17.09.2009 passed in W.P.No.4278 of 2006.

2.This Court vide order dated 17.09.2009 dismissed the writ petition in W.P.No.4278 of 2006 based on the specific stand taken by the respondents in the reply affidavit. The relevant portion of the order is extracted hereunder:

'It is submitted that inasmuch as the disciplinary case initiated against the applicant under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules had been conducted in accordance with the rules of procedures and since the charges framed against the applicant were held proved, the proceedings No.ONA1/68999/93 dated 13.10.1995 of the second respondent herein is sustainable. Further, as per sub-rule (5) under F.R.54, the period of absence of the applicant from 02.05.1979 to 12.10.1995 cannot be treated as duty



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for grant of full salary since the applicant had not been exonerated of the charges. However, the above period may be treated as a period spent on duty for a specified purpose such as pension etc., The Government namely the first respondent herein are examining the issue relating to regularisation of the period of absence of the applicant from service (period of suspension preceding removal and period of deemed suspension) with reference to the rules stated above...'

Aggrieved by the order, the petitioner has filed this review petition.

3.The learned counsel appearing for the petitioner submitted that the review petition was filed belatedly and the said delay of 844 days in filing the review petition was condoned by this Court and hence, the writ petition has to be re-argued and it has to be heard by this Court and the order impugned in this review petition has to be reviewed by this Court.

4.The contention of the learned counsel appearing for the petitioner that since the delay of 844 days in filing the review petition



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was condoned by this Court, the writ petition has to be re-argued and it has to be heard by this Court and the order impugned in this review petition has to be reviewed by this Court cannot be accepted by this Court since in order to review a decision, the petitioner should be able to point out an error which is apparent on the face of the record or in law. The scope of review petition is very very limited. In the present case, the petitioner has not made out any ground for reviewing the order dated 17.09.2009 passed in W.P.No.4278 of 2006.

5.The review application is dismissed. However, since the delay in filing the review petition has been condoned by this Court and the review petition has been numbered during the year 2012 and it has been kept pending till date, this Court grants liberty to the petitioner to file appeal against the order dated 17.09.2009 passed in W.P.No.4278 of 2006, if necessary. If any such appeal is filed by the petitioner, the period during which the review petition was pending before this Court shall be excluded for the purpose of limitation. No costs.

07.02.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No



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J.NISHA BANU,J.
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