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Rev.Appl.No.1



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Review Application No.147 of 2023

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

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

3. The Chief Educational Officer,
Kancheepuram.

4. The District Educational Officer,
St.Thomas Mount,
Chennai- 600 044.

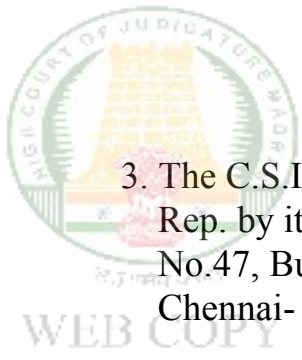
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Review Applicants

-VS-

1. S.H.Vasanthakumari

2. The Accountant General (pension),
No.361, Anna Salai, Teynampet,
Chennai- 600018.



3. The C.S.I. St. Thomas Higher Secondary School,
Rep. by its Secretary R.Gladwin Gabriel,
No.47, Butt Road, St. Thomas Mount,
Chennai- 600 016.

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Respondents

Prayer: Review Application filed against the order dated 01.09.2021 made in
W.A.No.2114 of 2021.

For Review Applicants : Mr.R.Neelakandan
Additional Advocate General
For Respondent : Mr.R.S.Anandan (R1)

ORDER

(Order of this Court was made by **S.VAIDYANATHAN,J**)

The Review Applicants have come forward with this Application, seeking to review the judgment of this Court made in W.A.No.2114 of 2021 dated 01.09.2021, on the ground that there is no provision under the Tamil Nadu Pension Rules, 1978 to count the part time service of an Employee that there was a delay on the part of the 1st Respondent in approaching the Court.

2. Today, when the matter was taken up for hearing, it was represented by the learned Additional Advocate General that in the light of the Government Order in



G.O.No.127, School Education Department dated 12.07.2023, the Review Applicants are inclined to grant benefits to the persons concerned and since the present Review Application is pending, the benefits could be extended to the persons concerned in this Review Application, subject to the outcome of the Review Application.

3. From the above submission, it is clear that Review Applicants have decided to extend the benefits to the persons concerned including 1st Respondent and therefore keeping this Application, without there being any scope to maintain the same, will not serve any purpose.

4. It is apposite to state here that as per settled law in terms of a catena of decisions of this 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 a few Judgments of this Court as also the Hon'ble Supreme Court to understand and appreciate the scope of review jurisdiction to find out if the Applicants have made out a case for reviewing the order dated 15.02.2022 in W.A.No.248 of 2022. An 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:

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“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.”

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:

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“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 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:

"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 Judgments referred to above, 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.



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

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. The grounds raised by the applicants, in our considered opinion, are 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 this Review Petition, want this Bench to re-write its Judgment, which is not possible under review jurisdiction. As already stated above, review is not an appeal in disguise and as such, in this case, there is no error in the judgment under review, apparent on the fact of the record. Therefore, this Court rightly confirmed the order of the learned Single Judge, which does not warrant any review.

13. For all the above reasons, we find no merits in the review application and the same deserves to be dismissed.

Accordingly, this Review Petition stands dismissed. It is made clear that the benefits arising out of the order dated 01.09.2021 in W.A.No.2114 of 2021 shall be extended within a period of four weeks from the date of receipt of a copy of this order. No costs.

[S.V.N., J.] [A.A.N., J]
08.08.2023

Index: Yes / No
Internet: Yes
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To

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