



Review Application No. 139 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

REVIEW APPLICATION No. 139 of 2022

&

C.M.P. No. 12276 of 2022

The Commissioner,
Erode Corporation, Erode.

..Petitioner

Vs.

1. R. Palanivel

2. The Director of Municipal
Administration,
Ezhilagam, Chepauk,
Chennai – 600 005.

..Respondents

Prayer: Review Application as against the judgment dated 25.02.2022
passed in W.A. No. 348 of 2022.



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For Petitioner :: Mr.S. Silambanan,
Addl.Advocate General II
assisted by
Mr.M. Rajamathivanan

For Respondents :: Ms.Dakshayani Reddy,
Senior Counsel for
Mr.P. Rajavel for R1
Mr.K. Tippu Sultan,
Govt. Advocate for R2

O R D E R

(Made by *S. Vaidyanathan,J.*)

The present review application has been filed as against the judgment dated 25.02.2022 passed in W.A. No. 348 of 2022.

2. The 1st respondent had filed the writ petition challenging the order passed by the review applicant denying him the benefit of promotion as an Assistant Engineer on the ground that Diploma/B.E. Degree qualification acquired through Distance Education was not equivalent to the qualification obtained through regular stream as per G.O.Ms. No. 149 Higher Education Department dated 22.07.2016. The learned Single Judge,



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by order dated 01.09.2021 allowed the writ petition following the decision of the Division Bench of this Court rendered in W.A. No. 3884 of 2019, which was based on earlier decisions of the Hon'ble Supreme Court. Aggrieved by the same, the intra court appeal i.e, W.A. No. 348 of 2022 came to be filed by the review applicant, which was dismissed by judgment dated 25.02.2022 observing as hereunder:

"8. From the above, it is clear that the rights accrued to the candidates who have acquired the Degree prior to the aforesaid G.O. cannot be simply taken away. The learned Single Judge, by following the Judgment of the Division Bench of this Court in W.A. No. 3884 of 2019, in which Judgment of Hon'ble Supreme Court has been followed has granted relief to the Writ Petitioner. Therefore, we are not inclined to take a different view in this matter and we find no merits in this Writ Appeal."

3. Based on the rendering of a Division Bench of this Court in W.A. No. 3884 of 2019 following the earlier orders of the Hon'ble Apex Court, W.A. No. 348 of 2022 has been dismissed and we find no reason to entertain this review application.



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4. That apart, 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 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***



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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 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:



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"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. Hence, the review application stands dismissed. No costs.

Connected C.M.P. is closed.



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(S.V.N.J.) (M.S.Q.J.)
21.12.2023

S. VAIDYANATHAN,J.

AND

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nv

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