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Rev.Aplw.Nos.226 of 2022 and 198 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 22.11.2023
CORAM**

**HON'BLE JUSTICE MR.JUSTICE S.VAIDYANATHAN
AND
HON'BLE JUSTICE MRS.JUSTICE.N.MALA**

Review Application Nos.226 of 2022 & 198 of 2023

S.Ruban Prince Vinothkumar

...Appellant in Rev.Aplw.No.226 of 2022

1.S.Sreenivasan

2.G.Ramesh

3.K.Anandan

...Appellants in Rev.Aplw.No.198 of 2023

Vs.

1. The State of Tamil Nadu

Rep. by its Principal Secretary to Government,
Higher Education (C2) Department,
Secretariat,
Chennai-600 009.

2. The Commissioner/Director,
Directorate of Technical Education,
Chennai-600 025.

3. K.Chandrasekaran

...Respondents in Rev.Aplw.No.226 of 2022

1. The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,



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Higher Education Department,
Fort St. George,
Chennai-600 009.

2.The Director of Technical Education,
Guindy, Chennai-600 025.

3.The Additional Director of Technical Education,
Directorate of Technical Education,
Guindy,
Chennai-600 025.

...Respondents in Rev.Aplw.No.198 of 2023

Common prayer: The Review Applications are filed under Order 47 Rule 1
of CPC r/w. Section 114 of CPC praying to review the order passed by this
Court in W.A.No. 886 of 2022 dated 13.07.2022.

Appellants : Mr.R.Singaaravelan
in both Rev.Aplw.Nos.

Respondents : Mr.Ramanlal
Additional Advocate General
assisted by Mr.S. John J Rajasingh
Additional Government Pleader
in both Rev.Aplw.Nos.



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COMMON JUDGMENT

[Order of the Court was made by N.MALA,J.]

Review Applications are filed against the common order passed in Writ Appeal No.886 of 2022 batch.

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2. The petitioner filed a writ petition in W.P.No.15046 of 2018 for a writ of mandamus directing the the respondents one and two to promote the petitioner as Instructor on par with Junior Mr.K.Chandrasekaran with all benefits as was given to the petitioner's juniors in G.O(Ms).No. 168, Higher Education (C2) Department, dated 26.09.2017. In the said writ petition, this Court passed an order on 05.03.2021, directing the respondents to consider the petitioner's representation for promotion as Workshop Instructor on par with Chandrasekaran. The petitioner thereafter filed the contempt petition in Cont.P.No.862 of 2021, as the respondents had not passed any order in pursuance of the order passed by the Court. The respondents later passed an order dated 03.08.021 rejecting the petitioners claim for promotion as Instructor on par with K.Chandrasekaran. Thereafter, the 2nd respondent filed the writ appeal in



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W.A.No.886 of 2022. Aggrieved by the common order passed in

W.A.No.886 of 2022 batch, the petitioner has preferred the above review application.

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3. The petitioners 1 to 3 filed W.P.No.1930 of 2018 for a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 1st respondent in Letter (D) No.299 dated 23.09.2017 and quash the same as illegal, incompetent and ultravires and to direct the 1st respondent to promote the petitioners to the post of instructor or to the post of Lecturer with effect from the date of promotion as per other similarly situated candidates as per G.O(Ms).No. 95, Higher Education (1) Department, dated 26.03.2008 passed in pursuance of the order of the Hon'ble Division Bench in W.A.No.1323 of 2011 dated 02.11.2013 and G.O(Ms).No. 121, Higher Education 9(C1) Department dated 01.04.2011 passed in pursuance of the Order of this Court in W.P.No.9905 of 2001 dated 10.07.2009 and W.A.No.807 of 2015 dated 19.06.2015 and also



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G.O(Ms).No.20, Higher Education Department dated 01.02.2016 with all monetary benefits and service benefits. The Writ Petition No.1930 of 2018 was tagged with other Writ Appeals No.886 of 2022 and writ petitions where the issues were common in nature. Aggrieved by the common order passed in W.A.No.886 of 2022 etc. batch, the petitioners preferred the above review application.

4. The learned counsel for the review petitioners submitted that the review petitioners were not able to place the individual facts of their case before the Court which were different from the batch and therefore the review is filed. The learned counsel further referring to para '52' of the order, stated that the Court erred in thinking that only the Amended service rules will apply to the petitioner's case and not the old Rules. The learned counsel relying on the Judgment of the Hon'ble Supreme Court reported in 1983 (3) SCC 284 submitted that the petitioner was qualified and entitled to promotion to the post of Instructor based on old Rules. The learned counsel further submitted as the review petitioner become eligible



for promotion even before the abolition of post vide G.O(Ms).No.184 dated 15.10.2014, the review petitioner was entitled to be considered for promotion as an Instructor. The counsel therefore submitted that as these aspects were not considered by the Court, the review petition was filed.

5. The learned counsel for the respondents on the other hand submitted that there was no error apparent on the face of the record and that on the grounds stated in the review petition, review cannot be sustained. The counsel further submitted that all the points raised by the review petitioner in the review petition were already raised before the Division Bench and therefore in the guise of review petition the petitioner cannot be permitted to re-agitate the issue.

6. We have heard both the learned counsels and have perused the entire materials placed on record.

7. Before entering into the merits of the issue, we would like to refer



to the Division Bench Judgment of this Court to which one of us (S.V.N,J) was a party. In the case of *The Teachers Recruitment Board vs. T.Shanthi and another* in Review Application No. 19 of 2023 in W.A.No.2958 of 2021 dated 28.03.2023, the scope of review was elaborately dealt with. Relevant paragraph '9' therein is as follows:

“9. 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."

8. Keeping in view the above legal propositions we venture to enquire if the review petition is sustainable.

9. The first contention of the learned counsel for the petitioner is that he was not able to place the individual grievance of the review petitioner before the Division Bench. We would like to refer to the preface to the Judgment under review.



“Though the Hon'ble Supreme Court is seized of similar matter, both the counsels represented that the case before the Hon'ble Supreme Court has no bearing on individual grievance espoused herein. Therefore, the counsels submitted that this Bench should hear and decide the matter. On the request of both the counsels the matters are taken up for hearing and disposal.”

10. It was only on the above consensus that the writ appeals were taken up together and the common order was passed. Nothing prevented the petitioner from addressing the Court on the individual facts of his case, but he failed and therefore it is very unfortunate that the petitioner should take such a plea in the review petition. In any event we are of the view that the review jurisdiction cannot be invoked on the said ground.

11. The contention of the review petitioner on para '52' of the Judgment that only the old rules will apply will amount to rewriting the Judgment. We have already expressed our view that the service rules inforce now would only apply and not the old Rules. If the petitioner is aggrieved with the same, his remedy lies elsewhere but not in review. In



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the guise of review, the petitioner cannot have the Judgment rewritten to suit his case, moreso, when the petitioner had agreed to conduct the case along with the batch, were the core issue was regarding the abolition of the post of Instructor. We have gone through the other grounds raised by the review petitioner and we find that they are all addressed in the common Judgment. We find no error apparent on the face of the order and in absence of any apparent error being made out, the review petition cannot be entertained.

As the finality attached to the order cannot be overturned by way of review, we find no merits in the review petitions and the same are dismissed. There shall be no order as to costs.

[S.V.N.,J.]

[N.M.,J.]

21.11.2023

Index : Yes/No
Neutral Citation: Yes/No
dsn



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To

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Higher Education (C2) Department,
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Chennai-600 009.

2. The Commissioner/Director,
Directorate of Technical Education,
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S.VAIDYANATHAN,J.

and
N.MALA ,J.

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