



WEB COPY



Review Application No.50 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2023

**THE HONOURABLE MR. S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN**

REVIEW APPLICATION No.50 OF 2022

C.Geetha

... Review Petitioner

vs.

1. The Controller of Examinations-cum-Secretary Incharge,
Tamil Nadu Public Service Commission,
Poonga Nagar,
Chennai 600 003.
2. The Government of Tamil Nadu,
rep. by the Commissioner-cum-Secretary,
Archaeology Department,
Fort St. George,
Chennai 600 009.

... Respondents

Review Application filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure seeking to review the order dated 30.09.2021 passed by this Court in W.A.No.2399 of 2021.

For Review Petitioner	:	Mrs.C.Uma
For 1 st Respondent	:	Mr.R.Bharanidharan
For 2 nd Respondent	:	Mr.S.John J. Raja Singh, Addl. Government Pleader



ORDER

WEB COPY

This Review Application is filed seeking to review the judgment dated 30.09.2021 passed in W.A.No.2399 of 2021. Relevant portion of the judgment passed in the said Writ Appeal, reads thus:

“14. In view of the aforesaid facts and circumstances of the case, we are of the view that even though it appears that the 1st Respondent is highly qualified and stood in Serial No.7 in the overall rank list, Serial No.4 in (BC category) and Sl.No.2 in Women Reservation, as per the instructions/notifications, she has not uploaded the Mark Sheet to enable the Appellant to know, whether she has studied Tamil as one of the subjects or the medium of instruction is Tamil to call her for certificate verification. Hence, we find that the order of the learned single Judge needs to be interfered with. However, from the records, it appears that even though the 1st Respondent is fit to be considered for appointment, unfortunately, the Government is going to lose a good hand on technicalities.

15. In view of what is stated hereinabove, this Writ Appeal is allowed and the order passed by the learned Single Judge dated 09.08.2021 is hereby set aside. ...”

2. Heard the learned counsel on either side and perused the documents available on record.



3. The Writ Petitioner is the Review Applicant. Admittedly, the Writ Petitioner had participated in the selection process to the post of Archaeological Officer in Tamil Nadu General Subordinate Service for the year 2019-2020 and results have been published, in which, she was ranked in Serial No.7 with the communal rank No.4. The grievance of the Writ Petitioner is that though she has uploaded all the required documents, her name was not found in the list of candidates published for verification of original Certificates. On enquiry, it was stated that she has not uploaded the consolidated Mark Sheet/Statement of UGC Degree Certificate.

4. In the Writ Appeal, it was stated by the learned Standing Counsel for the Tamil Nadu Public Service Commission that there are several candidates like that of the Writ Petitioner, who have not uploaded the required documents properly and hence, their candidature has been rejected.

5. We have clearly elaborated in the Writ Appeal that the candidate, who has studied in Tamil medium, has to upload the consolidated mark sheet/statement of UGC Degree Certificate and mere submission in lieu of uploading the documents, is not sufficient, as it will defeat the very purpose of instruction. The Writ Petitioner, under the erroneous impression, that it is suffice to upload the final mark sheet



alone, had uploaded the same which does not reflect 'Tamil' language as one of the subjects. In the case on hand, there is no evidence to show as to whether the Writ Petitioner had opted for 'Tamil' as one of the subjects in her Undergraduation course, since she has not uploaded the required Certificates to prove the same.

6. It is an axiomatic principle in law that rehearing of matter on merits and re-appreciation of the pleas raised by the litigants in the original order is certainly impermissible under review. It is to be remembered that review cannot be heard as an appeal, even if the order is an erroneous one. The ambit of review of an order passed in writ jurisdiction is very limited. That apart, for correcting an erroneous decision, 'Review' does not lie.

7. Moreover, a Division Bench of this Court in **R.Mohala Vs. M.Siva** in **Review Petition No.61 of 2018 and WMP.No.10818 and 10819 of 2018** decided on **25.04.2018**, in which one of us (SVNJ) was a member, had elaborately discussed the scope of review in paragraphs 7 and 8 therein, and 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



WEB COPY



Review Application No.50 of 2022

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. In view of the above and taking note of the decision rendered by the Apex Court in the case of **Karnataka State Seeds Development Corporation Ltd. vs. H.L.Kaveri**, reported in **(2020) 3 SCC 108**, this Court had clearly held that the case of the Writ Petitioner cannot be considered in the absence of documents that have to be uploaded and



Review Application No.50 of 2022

accordingly, allowed the Appeal filed by the Tamil Nadu Public Service Commission, thereby interfering with the order of the learned Single Judge.

9. In view of the upshot of aforesaid qualitative and quantitative discussions and having regard to the facts and circumstances of the present case, this Court finds no apparent error on the face of the judgment dated 30.09.2021 passed by this Court in W.A.No.2399 of 2021, as the Review Petitioner has failed to satisfy the three ingredients of Order 47 Rule 1 of C.P.C., necessitating review of the order so passed.

In fine, this Review Application is dismissed. Consequently, connected C.M.P.No.4033 of 2022 and C.M.P.No.4999 of 2023 are closed.

(S.V.N., J.) (A.A.N.,J.)
07.11.2023

Index : Yes/No
Speaking Order : Yes/No

(aeb)



WEB COPY



Review Application No.50 of 2022

**S.VAIDYANATHAN,J.
AND
A.A.NAKKIRAN,J.**

(aeb)

Review Application No.50 of 2022

07.11.2023