



Review Application No.8 of 2020

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS.K.GOVINDARAJAN THILAKAVADI

Review Application No.8 of 2020

B.Vivekanandan

...Petitioner

Vs.

1.J.Janorious Fausta

2.M.Uma Devi

3.K.Radha

4.M.Sureshkumar

5.P.K.Ajitha

6.P.K.Murugan

7.State of Tamilnadu,

Rep. By the Principal Secretary to Government,
Home Department, Secretariat,
Chennai – 600 009.

8.The Director General of Police,
Chennai – 600 004.

9.The Deputy Inspector of Police,
Technical Services,
Chennai – 600 004.

10.C.Anand Kumar

11.P.Krishnaswamy



Review Application No.8 of 2020

- 12.S.Maheswaran
- 13.S.Sekar
- 14.K.Gokulakannan
- 15.R.Vijayasekaran
- 16.S.Ravikumar
- 17.H.Arunkumar
- 18.M.Uma Maheswari
- 19.P.Hemalatha
- 20.N.jagadesan
- 21.R.Raja
- 22.R.Satyanarayanan
- 23.Saravanan
- 24.B.Raju
- 25.R.Saratha
- 26.N.Naresh Kumar
- 27.U.Parthasarathy
- 28.S.Parimala Devi
- 29.D.Rajesh
- 30.M.Bhuvaneswaran
- 31.V.Akila
- 32.M.Devendiran
- 33.K.M.Saravanan
- 34.K.Srinivasan
- 35.A.Sundar
- 36.K.Madhav Mohan
- 37.A.Sundaravadivelu
- 38.P.Manjula
- 39.M.K.Shanthi
- 40.N.Chitra

...Respondents

Prayer: Review Petition filed under Order 47 Rule 1 r/w. Clause 15 of the Letters Patent against the order dated 05.12.2019 in W.A.No.1448 of 2018.



Review Application No.8 of 2020

For Petitioner : Mr.M.Radhakrishnan

For Respondents : Mr.B.Kumar, Senior Counsel for
Mr.S.Sivakumar for R1

Mr.L.Chandrakumar for Mr.T.Balaji for R4

Mr.M.Radhakrishnan for R6

Mr.K.M.Ramesh for R14

Mr.S.Silambanan, Addl. Advocate General
assisted by Mr.L.S.M.Hasan Fizal,

Additional Government Pleader for R7 to R9
R2, 3, 5, 10 to 13, 15, 17 to 40 – served -

No appearance

R16 – Died (Dropped from array of parties
vide order, dt.02.08.2022 in
Rev.A.Nos.8/2020 & 211/2021

ORDER

The sole ground, on which, review is sought for is that the review applicant was not served notice in the Writ Appeal and the Writ Appeal came to be allowed without hearing him. While entertaining the review, a Division Bench had passed the following the order on 05.01.2022:-



“The review applications have been filed to challenge the judgment dated 05.12.2019 passed in W.A.No.1448 of 2018 on the ground that without giving an opportunity of hearing to the respondents in the writ appeal, the judgment of the learned Single Judge was set aside.

2.A perusal of the judgment shows representation of few respondents. But to ascertain whether notices were issued and served on all the respondents in the writ appeal, the Registry is directed to place the records of the writ appeal. The Registry is further directed to prepare a note as to whether notice was issued on respondents and they were served before the date of hearing of the appeal.

3.Let these review applications be listed on 02.02.2022 for compliance of the direction given above.”

2.The Registry has filed a report pursuant to the said order, which shows that the complaint of the applicant in Review Application No.8 of 2020 is correct and no notice was served on him in the Writ Appeal, when the Writ Appeal came to be disposed of by the Division Bench. Once it is conceded that notice was not served on one of the respondents, the order, which reverses the order of the Writ Court has to be necessarily re-called.



Review Application No.8 of 2020

3.The next question that would arise is whether the order could be

re-called only in respect of the petitioner or in its entirety. Since it is a matter concerning seniority of a bunch of persons, who were appointed as a Sub-Inspector (Technical) in the Police force in the same recruitment, recalling the order in respect of one person alone would not be a correct resolution. Proviso to Order 9, Rule 13 of the Code envisages such situation and empowers the Court to re-call the entire decree. A Writ Appeal being an appeal filed under Clause 15 of the Letters Patent, Proviso to Order 9, Rule 13 of the Code of Civil Procedure will apply. Hence, exercising the power under Proviso to Rule 13 of Order 9, we re-call the entire judgment made in the Writ Appeal No. 1448 of 2018 dated 05.12.2019.

4.In view of the above, this Review Application stands allowed.

(R.S.M., J.) (K.G.T., J.)

01.03.2023

kkn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No

5/7



WEB COPY

To:-

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home Department, Secretariat,
Chennai – 600 009.
- 2.The Director General of Police,
Chennai – 600 004.
- 3.The Deputy Inspector of Police,
Technical Services,
Chennai – 600 004.



Review Application No.8 of 2020



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Review Application No.8 of 2020

R.SUBRAMANIAN, J.
and
K.GOVINDARAJAN THILAKAVADI, J.

KKN

Review Application No.8 of 2020

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