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Review Application No.31 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

Review Application No.31 of 2024

1.State of Tamil Nadu Rep. by its
Additional Chief Secretary to Government
Energy Department
Secretariat, Fort St. George
Chennai 600 009

2.The Chief Electrical Inspector to Government
Thiru-Vi-Ka Industrial Estate
Guindy, Chennai 600 032

.. Appellants

Vs.

V.Ramakrishnan

.. Respondent

Review Application filed under Order XLVII Rule 1 CPC read with 114
CPC to review the judgment dated 02.11.2023 passed in W.A.No.2986 of 2023.

For Appellants : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.P.Balathandayutham
Special Government Pleader

For Respondent : Mr.K.S.Viswanathan
Senior Counsel
for Mr.Prem Narayan



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ORDER

(Made by S.S.SUNDAR, J.)

This review application is filed seeking to review the judgment dated 02.11.2023 passed by this Court in W.A.No.2986 of 2023.

2. The respondent earlier filed writ petitions viz., W.P.Nos.27417 of 2022 and 5036 of 2023 ;

“W.P.No.27417 of 2022 was filed for issuance of a writ of mandamus directing the respondents to publish the panel for promotion to the post of Senior Electrical Inspector for the year 2018-2019 after including the name of the petitioner in the said panel and consequently to direct the respondents to promote the petitioner to the post of Senior Electrical Inspector without reference to the charge memo issued by the 2nd respondent in proceedings Proc.No.Ku.A.No.13651/E3/2021 dated 13.06.2022.

W.P.No.5036 of 2023 was filed for issuance of a writ of certiorarified mandamus to call for the records in pursuant to the impugned order issued by the 1st respondent in letter No.2436/D2/2019 dated 30.01.2023 and to quash the same and consequently to direct the respondents to include the name of the petitioner in the panel for promotion to the post of Senior Electrical Inspector for the year 2018-2019 and to promote the petitioner to the post of Senior Electrical Inspector in accordance



with his seniority and without reference to the charge memo issued by the 2nd respondent in proceedings Proc.No. Ku.A.No. 13651/E3/2021 dated 13.06.2022.”

3. The grievance of the respondent/writ petitioner is that his name had been omitted in the promotion panel drawn in the year 2018-2019 for the post of Senior Electrical Inspector on the ground that the charges under Section 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955, dated 13.06.2022, is pending. Taking note of the fact that the crucial date for drawing the promotion panel for Senior Electrical Inspector is the 1st day of November every year and the fact that the charge memo was issued only on 13.06.2022, the learned Single Judge allowed W.P.No.5036 of 2023, directing the review petitioners to include the respondent/writ petitioner's name in the post of Senior Electrical Inspector and pass an order of promotion on par with his immediate juniors and dismissed W.P.No.27417 of 2022 as having become infructuous, since the panel was already published.

4. The order passed by the learned Single Judge allowing W.P.No.5036 of 2023 was challenged in a writ appeal filed by the review petitioners in W.A.No.2986 of 2023. This Court, for the same reasons assigned by the



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learned Single Judge, dismissed the writ appeal and confirmed the order passed by the learned Single Judge in the writ petition. There is no reference to new facts of documents in any of the grounds raised in the review application.

5. The learned Additional Advocate General submitted that only at the time of finalising the promotion, the charge memo was issued and therefore, the Judgment of this Court and the learned Single Judge allowing the writ petition are on an erroneous assumption of facts.

6. This Court is unable to agree with the submission of the learned Additional Advocate General. First of all, no such ground was raised either in the review application or in the writ appeal. Secondly, it is a fact that the name of the writ petitioner was not included in the promotion panel even though on the crucial date, no charge memo was issued. It is quite interesting and surprising to note that the writ petitioner's name was not included, probably on the assumption that there would be a charge memo in 2022. This glaring mistake or injustice was taken note of by the learned Single Judge and this Court.



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7. Review is maintainable, when there is an error apparent on the face of record. This Court finds no such error either in narration of the facts or on the appreciation of law. It is admitted that the respondent's name though was included in the panel, till date, no promotion is given. This is another illegality and the conduct of the appellants is contumacious. Therefore, this review application stands dismissed and the appellants are directed to comply with the order of the learned Single Judge forthwith. No costs.

[S.S.S.R.,J.] [M.S.Q., J.]
18.11.2024

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