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Rev.Appln.No.88 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.07.2024

CORAM:

THE HON'BLE MRS. JUSTICE N.MALA

**Review Application No.88 of 2024
and WMP.No.15419 of 2024
against W.P.No.2074 of 2022**

S.Madhavan

... Review Petitioner

VS.

1.THG Publishing Pvt. Ltd.,
859 & 860,
Anna Salai,
Chennai – 2.

2.P.Prabhu

3.P.Venkatesan

4.M.Dhanushkodi

5.P.Raghu

6.S.Srinivasan

7.Ravi

8.S.Sankaran

9.M.S.Arivodainambi

10.K.Rajendran

... Respondents



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Prayer: Review Application filed under Order 47 Rule 1 of C.P.C., to review the order dated 15.04.2024 passed in W.P.No.2074 of 2022 and pass suitable orders to uphold the order of the Labour Court made in ID.No.205 of 2016 dated 29.10.2021, which says DA Base Factor should remain at 167 only, by taking cue from the dictum propounded by Hon'ble Justice Bachawat on correlation between Basic Pay Structure recommended and DA Base Factor recommended, as the Basic Pay Structure recommended on 01.07.2010 by Hon'ble Justice Majithia is related to the DA Base Factor 167 only which is the 12-month average CPI (Cost Price Index) for the period 01.07.2009 to 31.06.2010.

For Review Petitioner : Mr.S.Madhavan (Party in person)

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J U D G M E N T

The Review Application is filed to review the order dated 15.04.2024 passed in W.P.No.2074 of 2022 and pass suitable orders to uphold the order of the Labour Court made in ID.No.205 of 2016 dated 29.10.2021, which says DA Base Factor should remain at 167 only, by taking cue from the dictum propounded by Hon'ble Justice Bachawat on correlation between Basic Pay Structure recommended and DA Base Factor recommended, as the



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Basic Pay Structure recommended on 01.07.2010 by Hon'ble Justice Majithia is related to the DA Base Factor 167 only which is the 12-month average CPI (Cost Price Index) for the period 01.07.2009 to 31.06.2010.

2.The review application is filed against the order dated 15.04.2024 passed by this Court in W.P.No.2074 of 2022.

3.After hearing the petitioner and on going through the grounds of review, I find that the grounds raised by the petitioner relate to the merits of the case. This Court as well as the Hon'ble Supreme Court have outlined the contours of review jurisdiction. The Division Bench of this Court in the case of ***R.Mohala Vs. M.Siva and others*** in ***Review Petition No.61 of 2018 and WMP.No.10818 and 10819 of 2018*** decided on 25.04.2015, elaborately discussed the scope of review and the relevant paragraph is 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.”

4. In my view as rightly held by this Court in the aforesaid case review



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jurisdiction cannot be invoked to substitute a view but can be invoked only to

correct the errors apparent on the face of the record.

I find no error

apparent on the face of the record. In my view the review petitioner wants this Court to revisit the case on merits which is not permissible under the review jurisdiction. On going through the grounds of review filed by the petitioner, I find that the grounds relate to the merits of the case and therefore I find no merits in the review application and the same is dismissed.

5.In any event, the petitioner is at liberty to file a writ appeal against the order dated 15.04.2024 passed by this Court in W.P.No.2074 of 2022, if he is so aggrieved. In case, the petitioner files the writ appeal within one month from the date of receipt of this order, the period spent in prosecuting the review application will stand excluded. Accordingly, the review application is dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

25.07.2024

Index: Yes / No

Internet:: Yes / No

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N.MALA, J.

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To

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