



WEB COPY



Rev.Aplw.No.153 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Rev.Aplw.No.153 of 2021
in
W.P.No.29662 of 2019

P.Subramanian

... Petitioner

Vs.

1.The Registrar General,
Madras High Court,
Chennai – 104.

2.Principal District Judge,
Salem.

3.R.Vijayakumar

... Respondents

Prayer: Review Application filed under Order 47 Rule 1 r/w Section 114 of Civil Procedure Code, to review the Judgment dated 06.09.2021 in W.P.No.29662 of 2019.



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For Petitioner : Mr.Balan Haridas
for Ms.S.Surya Devi

For R1 & R2 : Mr.V.Ayyadurai,
Senior Counsel
for Mr.V.Balamurugan

For R3 : Mr.V.Vasanthakumar

ORDER

(Order of this Court was made by S.M.SUBRAMANIAM,J.)

The Review Application has been instituted to review the order dated 06.09.2021 passed in W.P.No.29662 of 2019.

2. The claim of the review petitioner originated on account of denying promotion to him over and above his Senior to the cadre of Sherishtadar.

3. Mr.Balan Haridas learned Counsel for Ms.S.SuryaDevi appearing on behalf of the review petitioner would mainly contend that the review petitioner possess the preferential qualification of Master of Law. However, the senior, who was promoted to the post of Sherishtadar was not possessing the said qualification.

4. Rule 8 of the Tamil Nadu Judicial Ministerial Service Rules



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contemplates that promotion to the post of Sherishtadar shall be made on grounds of merit and ability. Seniority being considered only where merit and ability are approximately equal. Application of Rule in *stricto sensu*, the name of the Review petitioner ought to have considered for promotion to the post of Sherishtadar over and above his senior, since the said Senior was not possessing the preferential qualification of Master of Law.

5. Mr.V.Ayyadurai, learned Senior Counsel for Mr.V.BalaMurugan appearing on behalf of the respondents 1 and 2 would oppose by stating that it is not the only factor that the promotions are granted merely based on the preferential qualification. Merits and the ability are assessed, considering the entire Service Records of the employees. Possessing one preferential qualification would provide no right to claim promotion over and above the senior. Relative merits are the subjective satisfaction of the employer. Therefore, the claim of the petitioner was rightly rejected by the Writ Court. More-so, such a ground raised in the review petition is not entertainable.

6. It is brought to the notice of this Court, that the petitioner was



subsequently promoted to the post of Chief Administrative Officer on 30.04.2007 and retired from service in the year 2009.

7. The writ petition filed by the petitioner was rejected on the following reasons:

“10. It is evident that the petitioner barked up the wrong tree in carrying the petitioner's revision to an authority that did not possess the jurisdiction to consider the same. The order dated January 10, 2009 has not been interfered with in the subsequent writ petition filed by the petitioner before this court. Thus, the petitioner's fate stood sealed upon the erroneous filing of the revision before an inappropriate authority and such authority dismissing the same as not maintainable. The further measures that the petitioner took were not in accordance with the procedure established under the Service Rules and, in the meantime, the petitioner's severance from service upon his superannuation took place. In the circumstances, it cannot be seen that there was any right that vested in the petitioner that the petitioner can assert to have legitimately pursued in accordance with the established procedure for the petitioner to claim the benefits, whether notional or monetary, in respect of the perceived irregularity in promoting some other ahead of the petitioner in the year 2003.



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11. For the reasons aforesaid, no relief can be afforded to the petitioner at this stage. W.P.No.29662 of 2019 is dismissed. W.M.P.No.29553 of 2019 is closed.”

8. Re-adjudication of issues on merits are impermissible in a review proceedings under Order 47 Rule 1 of CPC. Error apparent on record if established alone needs to be considered for reviewing an order. The case of the petitioner was adjudicated on merits and dismissed. Certain grounds raised may be grounds for an appeal and certainly not to review the order. Scope of review cannot be expanded by entertaining the grounds relating to merits.

9. In view of the above, the Review Application stands dismissed.

[S.M.S.J.] [K.R.S.J.]
22.03.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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