



Rev.Aplw.No.185 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

AND

THE HON'BLE Ms.JUSTICE P.T. ASHA

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A.Srinivasan : Petitioner

versus

1.Union of India,
rep. By its Secretary,
Government of India,
A wing, Shastri Bhavan,
New Delhi 110001

2.The Director General, Films Division,
Ministry of Information & Broadcasting,
24, Dr.G.Deshmukh Marg,
Mumbai 400026

: Respondents

Prayer: Review petition filed under Section 114 of the Code of Civil Procedure to review the order in WP No.SR50984 of 2019 dated 01.07.2019.

For the Petitioner : Mr.P.R.M.Rao



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ORDER

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

This review petition is filed against the order dated 01.07.2019 in WP No.SR50984 of 2019.

2. Brief facts that are necessary for the disposal of this review are as follows:

(a) The petitioner was originally suspended from service and he challenged the same before the Tribunal in OA No.962 of 2011. The order of suspension was set aside by the Tribunal. The said order had become final. A review petition was filed by the respondents before the Tribunal and the review petition was dismissed. Thereafter, the respondents challenged the order in the review petition before the Writ Court. The said writ petition was also dismissed.

(b) By subsequent proceedings, the petitioner was retired compulsorily. The order



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of compulsory retirement was sought to be challenged before this Court by filing a writ petition. The Registry entertained a doubt as regards the maintainability of the writ petition and therefore, the matter was placed before Court for maintainability.

(c) This Court, cautiously, after recording the facts narrated by the petitioner in this case, held that the writ petition is not maintainable and the petitioner's remedy is to challenge the order of compulsory retirement before the Central Administrative Tribunal. The objection raised by the Registry was sustained and the writ petition was rejected at the numbering stage, only on the ground of maintainability.

3. This review petition is filed by the petitioner to review the order of this Court, sustaining the objection raised by the Registry as



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regards maintainability of the writ petition.

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4. A review is not an appeal in disguise as held by the Hon'ble Supreme Court and this Court in umpteen number of cases. While sustaining the objection raised by the Registry, this Court observed that the petitioner's writ petition is not maintainable since the proper forum to hear his grievance is only the Central Administrative Tribunal.

5. The present review application is filed only on the ground that the writ petition sought to be filed by the petitioner challenging the compulsory retirement ought to have been entertained by this Court, exercising the power under Article 227 of the Constitution of India.

6. It is not for us to decide whether a different order could have been passed and hold that there is a possibility of maintaining the writ petition. When an order is passed on merits rejecting the writ petition as not maintainable, the petitioner has to challenge the same by way of appeal and not by way of review, as there is no scope for reviewing the order passed on merits. Even an erroneous order cannot be challenged in a review petition. On established principles, the



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petitioner has an effective and statutory remedy. Hence this Court has rightly dismissed the writ petition on the ground of maintainability.

7. Order 47 Rule 1 of the Code of Civil Procedure does not enable the petitioner to maintain a review petition for the grounds raised in this review petition. There is no error apparent on the face of the record and we are unable to find any ground to entertain a review under Order 47 Rule 1 of the Code. Therefore, the review petition is dismissed. There will be no order as to costs.

(S.S.S.R., J.) (P.T.A., J.)
20.06.2024

Index : Yes/No
Neutral Citation : Yes/No
tar

To

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