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Review Petition .40 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

Review Petition No.40 of 2020
in
WP No.2165 of 2014

K. Petchiappan

... Review Petitioner/2nd respondent

Vs.

1. Union of India rep. by
The Secretary, Ministry of Micro, Small &
Medium Enterprises, Government of India,
New Delhi - 110 001.
2. M/s. National Small Industries Corporation Ltd.,
Rep. by its Board of Directors,
NSIC Bhavan, Okhla Industrial Estate,
Nw Delhi - 110 020.
3. The Chairman-cum-Managing Director,
National Small Industries Corporation Ltd.,
NISIC Bhavan, Okhla Industrial Estate,
New Delhi - 110 020.
4. The Zonal General Manager,
National Small Industries Corporation Ltd.,
Old NO.615, New No.422, Anna Salai,
Chennai 600 006



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5. The Central Administrative Tribunal,
Madras Bench,
rep. by its Registrar,
City Civil Court Building,
High Court, Madras

... Respondents

Prayer: Review petition filed under Order 47 Rule 1 & 2 r/w. Section 114 of CPC against the order dated 18.11.2014 passed by their Lordships Mr. Justice Satish K.Agnihotri & Mr. Justice K.K.Sasidharan in W.P.No.2165 of 2014 on the file of this Court.

For Petitioner	: Mr. K.K.Senthilvelan, Senior Counsel, for Ms.R.Jeevitha
For Respondents	: Mr.V.Vijay Shankar and Mr.N.Balamurali Krishnan, respondents 1 to 4.
	: R5- Tribunal.

ORDER

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

The present review petition has been instituted to review the judgment dated 18.11.2014 passed in WP No.2165 of 2014.



2. The Review Petitioner was an employee in the National Small Industries Corporation Limited. On initiation of Departmental Disciplinary Proceedings, a Charge Memorandum was issued. The petitioner submitted his explanation denying the charges. An enquiry was conducted by the Department. Enquiry Report was submitted and it was served to the delinquent employee. Final order in the Disciplinary Proceedings was issued imposing the punishment of removal from service. The appeal preferred by the employee was rejected. Thereafter, he approached the Central Administrative Tribunal by filing O.A.No.75 of 2013. The Tribunal allowed the Original application by setting aside the order of punishment of removal from service on 02.01.2014. The respondents filed W.P.No.2165 of 2014. The Division Bench of this Court allowed writ petition filed by the Department by setting aside the order of the Central Administrative Tribunal dated 02.01.2014 in O.A.No.75 of 2013.

3. The Review Petitioner filed SLP(C).No.2692 of 2015 and the Hon'ble Supreme Court of India dismissed the Special Leave Petition.

4. After dismissal of the Special Leave Petition, the present Review Petition was instituted by the petitioner.



5. Mr.Senthilvelan, learned senior counsel for the petitioner would submit that since the Hon'ble Supreme Court dismissed the SLP without adjudicating the merits, the present Review Petition is maintainable in view of the judgment of the Hon'ble Apex Court. As far as the grounds for review is concerned, the disciplinary authority had violated the rules of natural justice while conducting Domestic Enquiry. Allegation of bias was raised against the enquiry officer. The request of the delinquent officer to have defence assistant during the course of enquiry was denied. Therefore, the arbitrary exercise of power resulted in an error apparent and thus, the Review Petition is to be entertained. It is further contended that the delinquent is entitled for defence assistant as per the rules.

6. All the grounds raised are relating to merits, which cannot be adjudicated in a review proceedings. Grounds for appeal cannot be considered for entertaining the review petition. The scope of review petition cannot be extended by the Courts beyond the ground of error apparent on record. In the absence of any error apparent on records, the parties have to approach the Higher Court and Review Petition for re-adjudication on merits involved as impermissible.



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WEB COPY 7. In the present case, the Division Bench of this Court allowed the Department Appeal and the Review Petitioner filed SLP, which was dismissed. Thereafter, filing a Review Petition raising the grounds as stated above would amounts to re-adjudication of merits, which is not permissible in a review proceedings. Therefore, we are not inclined to entertain the present Review Petition and consequently stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.]

[M.J.R., J.]

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Index: Yes/No

Speaking/Non-speaking order

mrp

To

1. The Secretary, Union of India,
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New Delhi - 110 001.
2. The Board of Directors,
M/s. National Small Industries Corporation Ltd.,
NSIC Bhavan, Okhla Industrial Estate,
New Delhi - 110 020.



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