



Rev.Aplc.(MD)No.69 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM :

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

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N.Murugeswari

...Review Petitioner

-Vs-

- 1.The Principal,
Government Medical College (Siddha),
Murugankurichi, Palayamkottai,
Tirunelveli District
- 2.The Director,
Directorate of Indian Medicine and Homeopathy,
Arumpackam, Chennai – 106
- 3.The Secretary to Government,
Health & Family Welfare IM 2 (2) Department,
Chennai – 9

... Respondents

Prayer : Review Application filed under Order XLVII Rule 1 and 2 read with Section 114 of the Code of Civil Procedure, to review the order passed by this Court in W.A.(MD)No.1459 of 2023, dated 12.09.2023.

For Review Petitioner : Mr.S.Govindan

For Respondents : Mr.J.Ashok
Additional Government Pleader



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ORDER

[Order of the Court was made by **D.BHARATHA CHAKRAVARTHY, J.**]

The present Review Application has been filed seeking to review the order passed by this Court, dated 12.09.2023, in W.A.(MD)No.1459 of 2023.

2. Mr.S.Govindan, appearing on behalf of the review petitioner, would submit that the petitioner belongs to basic service. The Full Bench of this Court in *M.Sivappa vs. State of Tamil Nadu & Others [2024-II-LLJ-257(Mad)]* has categorically held that with reference to the persons belonging to the basic service, the prescription of G.O.Ms.No.74, dated 27.06.2013, regularizing them from the later date is incorrect, and they should have been regularized on the completion of 10 years itself. Thereafter, the Full Bench had remitted the matter back to the learned Single Judge for consideration. The same principle is to be applied in the case of the petitioner also, who belongs to basic service. The regularization in the year 2007 is incorrect in law and therefore, if the regularization is deemed to be taken place upon completion of 10 years of service, then the petitioner will be entitled for the old pension scheme.

3. We have considered the said submission made by the learned counsel for the review petitioner.



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4. It can be seen that the subsequent Full Bench in ***B.Vallipavai vs. The State of Tamil Nadu [2023 SCC OnLine Mad 5035]*** has held that as far as pension is concerned, only if the date of appointment is prior to 01.04.2003, the old Pension scheme will be applicable.

5. Admittedly, in this case, the regularization of the petitioner took place only in the year 2007. The petitioner was non-suited on the ground that the petitioner did not even think it fit to challenge the order of regularization. Only the rejection of representation of the petitioner praying to grant old pension was made as the order impugned and accordingly, taking note of the same, the learned Single Judge had dismissed by stating that if it is with reference to the claim for regularization, the matter would be hit by delay and laches, and as a matter of fact, not even a prayer is made by the petitioner with reference to the order of regularization, which we had upheld.

6. Even in the context of the Full Bench judgment relied upon by the learned counsel, we do not think that there is any error apparent on the face of the record so as to review the order dated 12.09.2023.



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7. Accordingly, finding no merits, the review application stands dismissed.

(S.S.S.R., J.)

(D.B.C., J.)

02.09.2024

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Index : Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

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