



Rev.Application Writ(MD) No.21 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Rev.Application Writ(MD) No.21 of 2024
in W.P.(MD).No.267 of 2024
and WMP(MD) Nos.3236, 3238 of 2024

M.Murugaraj

... Petitioner

Vs

1. The Director,
Commissionerate of Land Survey and Settlement,
Chepauk, Chennai-5.

2. The Assistant Director,
Land Survey and Records Department,
Pudukkottai District, Pudukkottai.

... Respondents

Prayer : Review Petition filed under Order XLVII Rule 1 & 2 r/w Section 114 of C.P.C, to review the order passed in W.P.(MD).No.267 of 2024, dated 31.01.2024.

For Petitioner : Ms. K.Porkodi
for M/s.Polax Legal Solutions

For Respondents : Mr.J.K.Jayaselan
Government Advocate



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ORDER

Seeking to review the order passed by this Court in W.P(MD) No. 267 of 2024. dated 31.01.2024.

2.The learned counsel for the Review Petitioner Ms.Porkodi Karnan, for Porex Legal Solutions submitted on behalf of the petitioner that the petitioner was working as Firka Surveyor at Arasarkulam Firka from 24.06.2017 to 20.09.2022. He was transferred on request to Aranthangi Town Sub Inspector of Surveyor from 21.09.2023 till the impugned order of Transfer was passed on 15.12.2023 transferring him to Singavaram Firka Manamelkudi Taluk. The second respondent had passed the impugned Order of Transfer, dated 15.12.2023 by wrongly concluding that the petitioner has been working in the same town for more than 3 years. The second respondent had failed to see that the revenue taluk consists of several Firkas and each Firka consists of several revenue villages. As such, every Firka is a separate unit for the post of Firka surveyors and not the taluk. The Firka surveyor of one Firka of the revenue taluk could be transferred to another Firka of the same revenue taluk. Thus, the petitioner having served for more than 3 years at Arasarkulam Firka,



was placed as Sub Inspector of Surveyor at Aranthangi Taluk for the past one year. The second respondent had wrongly concluded that the petitioner is working in the same taluk for more than 3 years and has passed the impugned order of Transfer.

(ii).The second respondent relying upon the circular of the first respondent, dated 21.11.2023 has passed the impugned order of Transfer, wherein, a reference is made about G.O.Ms.No.10 of Personnel and Administrative Department, dated 07.01.1994. Even the very basic reading of G.O.Ms.No. 10 exhibits that same station/post does not mean within the taluk or district. That being so, the period of service of the petitioner as Firka surveyor at Arasarkulam could not be considered for transfer. Only the period of service as Sub Inspector of Surveyor at Aranthangi Taluk alone could be considered for transfer. The second respondent had wrongly misread the circular of the first respondent, dated 21.11.2023 and has passed the impugned Order of Transfer of the petitioner. Paragraph No. 4 of the said circular reads as follows:

“The Assistant Directors are instructed to transfer those land surveyors and draftsman in taluk office, who are working for more



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than 3 years in the same taluk to another taluk without any influences”

Thus, the learned petitioner's counsel contended that the instruction is only for those Taluk Surveyors and draftsman, who were working for more than 3 years. However, the petitioner has been working as Taluk Surveyor only from 21.9.2022 in the present destination.

(iii).The learned counsel for the review petitioner further submitted that the second respondent had failed to see that the Aranthangi Revenue Taluk consists of 6 Firka Surveyors, one Sub Inspector of Surveyor and one Town Surveyor. Each of these posts are separate units within the revenue taluk. Holding a firka surveyor post for 3 years in the same taluk will not prevent them to serve in another firka or in town for further period. The learned counsel further stating that since all these vital facts were not placed before this Court at the first instance, the order passed by this Court is an error apparent on the face of record and pressed for interference of this Court by way of review.

3.Per contra, the learned Government Advocate for the respondents Mr. J K.Jayaselan questioned the maintainability of this review petition and vehemently contended that the writ petitioner ought to have filed a writ appeal



as against the order of this Court and obviously, no ground is made out to file a review and prayed for dismissal of the review petition.

4.Heard, the learned counsel for the petitioner and the learned Government Advocate for the respondents and carefully perused the materials available on record.

5.Before embarking on the merits of this review petition, the law on the subject has to be elucidated elaborately. The Division Bench of this Court in ***Rev.Appl.No.135 of 2022, dated 29.11.2022*** has issued a compendium of guidelines to deal with review petitions and the same is extracted as follows:

“11.From a reading of the above referred Judgments it can be fairly discerned that:

1.Review is not an appeal in disguise.

2.The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1 C.P.C.

3.A wrong exposition of the law or a wrong application of the law and failure to apply the correct law cannot be a ground for review.

4.The power to review is a restricted power given to a Court to go through the Judgment only to correct it or improve it, on the basis of some material which ought to have been considered, escaped consideration or



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failed to be placed before it for any other reason, but not to substitute a fresh or a second Judgment.

5.The power of review cannot be invoked to correct the erroneous Judgment and the finality attached to a Judgment cannot be disturbed.

6.Only errors which are apparent on the face of the record in the sense that errors which strike on mere looking at record can only be corrected and not those that require long drawn process of reasoning on point.

12. The above are some of the basic principles on which the power to review rests. The said principles are not exhaustive but only illustrative.”

6.The Hon'ble Apex Court in the case of ***Kamlesh Verma versus Mayavathi and others*** reported in ***2013 STPL 18099 SC*** has summarized the principles governing the review under Order 47 Rule 1 of CPC and the same is extracted as follows:

“(A) When the review will be maintainable:-

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

(B) When the review will not be maintainable:-



- (i) *A repetition of old and overruled argument is not enough to reopen concluded adjudications.*
- (ii) *Minor mistakes of inconsequential import.*
- (iii) *Review proceedings cannot be equated with the original hearing of the case.*
- (iv) *Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*
- (v) *A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.*
- (vi) *The mere possibility of two views on the subject cannot be a ground for review.*
- (vii) *The error apparent on the face of the record should not be an error which has to be fished out and searched.”*

7.Relying upon Annexure 1 of the G.O.Ms.No. 10 of Personnel and Administrative Reforms Personnel Department, dated 07.01.1994, the review petitioner's counsel drew my attention to the general policy of transfer and the clause pertaining to change of post once in 3 years as provided in the said annexure. The learned counsel further submitted that, since the said aspect was not brought to the notice of this Court in the writ petition, pressed for reviewing the order passed by this Court in W.P(MD) No.267 of 2024.



8.However, the same is a part of G.O.Ms.No.10, dated 07.01.1994, which has been duly relied upon by the revision petitioner/writ petitioner in paragraph No. 5 of his affidavit in the writ petition. The entire fulcrum of the said writ petition itself revolved around the mandates of G.O.Ms.No.10 of Personnel and Administrative Reforms department, dated 07.01.1994.

9.Review of an order passed by a Court would lie only on the discovery of new and important matter after the exercise of due diligence, which was not within the knowledge of the petitioner or which could not be produced by him at the time of moving the writ petition. However, the entire crux and fulcrum of the writ petition had been taken forward only on the basis of the aforesaid G.O.Ms.No. 10 and for the reason that a particular paragraph of the said G.O.Ms.No. 10 has not been brought to the attention of this Court, would not be a reason to invoke the restricted power of review of this Court. Review can never be resorted to as a routine procedure. Review is permissible only when there is a glaring omission or patent mistake or a grave error has crept in by judicial fallibility. I do not find any perversity in the order passed by this Court in the writ petition and reiterating that transfer is incidence of



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service. I am not inclined to review the order passed by me in W.P(MD) No. 267 of 2024.

10. Accordingly, the Review Application stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

26.02.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

1. The Director,
Commissionerate of Land Survey and Settlement,
Chepauk, Chennai-5.

2. The Assistant Director,
Land Survey and Records Department,
Pudukkottai District, Pudukkottai.



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L.VICTORIA GOWRI, J.

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