



Rev.Aplc.(MD)No.40 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.07.2024

Pronounced on : 08.11.2024

CORAM

**JUSTICE N.SESHASAYEE
AND
JUSTICE P.VADAMALAI**

**Rev.Aplc.(MD)No.40 of 2021
in
W.A(MD)No.1215 of 2020**

P.Murugesan

.... Petitioner/Sole Respondent

Vs.

1.The President,
National Horticultural Research &
Development Foundation,
Chitegaonphata Village,
Darna Sangvi (Post),
Niphad Taluk, Nasik District,
Maharastra – 422 201.

Shifted later to
The President,
National Horticultural Research and
Development Foundation (NHRDF),
Plot No.47, Pankha Road, Institutional Area,
Janakpuri, New Delhi – 110 058.



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2.National Horticultural Research and
Development Foundation (NHRDF),
55, Pandiyan Nagar,
Dindigul – 624 001.

A part of work of Dindigul Centre shifted and
functioning at
National Horticultural Research and
Development Foundation (NHRDF),
5/5, B-1B, Sakthi Vinayagar Nagar,
Vellalore, Coimbatore – 641 111.

Another part of work of Dindigul Centre retained
and functioning at

3.National Horticultural Research &
Development Foundation (NHRDF),
T.Kombai Village, Pannaipatti B.P.O.,
Kannivadi via,
Dindigul West Taluk,
Dindigul District.

... Respondents/Appellants

Prayer:- Review Application is filed under Order 47, Rule 1 & 2 r/w
Section 114 of the Civil Procedure Code, to review the order, dated
01.04.2021 passed in W.A(MD)No.1215 of 2020.

For Petitioner : Mr.P.Murugesan
Party-in-person

For Respondents : Mr.V.O.S.Kalaiselvan



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ORDER

(Order of the Court was made by P.VADAMALAI, J.)

This Review Application is filed to review the order, dated 01.04.2021 passed in W.A(MD)No.1215 of 2020 and allow this review application.

2. The petitioner, party-in-person, submitted that when the industrial dispute was pending, charge memo was issued and hence, the petitioner raised certain points including that the Director has no power to initiate disciplinary proceedings. Though the Writ Court as per order, dated 28.11.2019 set aside the dismissal of I.D.No.100 of 2014, Writ Appeal was filed by the respondents and the Division Bench of this Court partly allowed the Writ Appeal on 01.04.2021 and set aside the order of the learned Single Judge, dated 28.11.2019 and the matter was remanded back to the Labour Court, Tiruchirappalli for fresh consideration. In the Writ Appeal, the points raised by the petitioner have not been considered and answered and so, the petitioner has filed this Review Petition. The petitioner relied on the citation



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reported in (2011) 2 MLJ 630 (SC) (M.Sudakar vs. V.Manoharan and Others).

3. The learned counsel for the respondents contended that there is no apparent error or mistake in the impugned order and therefore, the review will not arise.

4. Heard both sides and perused the records in this Review Application. Admittedly, the petitioner filed the Writ Petition in W.P(MD)No.25060 of 2018 challenging the order passed by the Labour Court, Tiruchirappalli in I.D.No.100 of 2010, dated 22.10.2018, which was filed against the dismissal of service of the petitioner by the respondents. The petitioner mainly contended that the 1st respondent terminated the service of the petitioner without following the procedure under Section 33(2)(b) of the Industrial Dispute Act, 1947 and the Director of the National Horticultural Research and Development Foundation has no power to initiate the disciplinary proceedings. The said Writ Petition in W.P(MD) No.25060 of 2018 was allowed by the learned Single Judge by order, dated



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28.11.2019. The respondents preferred an appeal in W.A(MD)No.1215 of 2020 challenging the order of the learned Single Judge. The Division Bench of this Court set aside the order of the learned Single Judge and remanded the matter in I.D.No.100 of 2010 to the Labour Court, Tiruchirappalli, for fresh consideration as to whether the Director of NHRDF has the power to initiate disciplinary proceedings as against the petitioner or not. The Division Bench quoted the observation of the learned Single Judge, which is as follows:

“The Director of National Horticultural Research and Development Foundation (NHRDF) who had initiated disciplinary proceedings and terminated the services of the petitioner does not have power to do so. The Labour Court has committed perversity in not considering all the issues raised by the petitioner and failed to give a finding.”

On perusal of the impugned order, the Division Bench considered all the issues and remitted back the matter for fresh consideration. The review petitioner contended that his issues were not answered by the



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Division Bench in the Writ Appeal. The review cannot be entertained as another appeal in disguise. The jurisdiction of this Court in review is in a narrow compass and can be exercised only upon an error apparent on the face of the record. On perusal of the order under review, no error is apparent on the face of the records. Therefore, the citation relied on by the petitioner reported in **(2011) 2 MLJ 630 (SC)** (cited supra) is not applicable to the facts of this petition.

5. Moreover, on hearing both and on perusal of records, after remand as per order passed in the Writ Appeal in W.A(MD)No.1215 of 2020, dated 01.04.2021, the Labour Court, Tiruchirappalli took up the matter in I.D.No.100 of 2010 for fresh consideration. When the I.D.No.100 of 2010 was pending, the petitioner filed an Interlocutory Application in I.A.No.4 of 2015 praying for directing the 1st respondent to pay full salary with notional increase by 7th date of every calendar month as interim relief. The said petition was dismissed on 28.07.2015. Being aggrieved over the same, the petitioner preferred the Writ Petition in W.P(MD)No.15993 of 2015 before this Court, which was also dismissed on 04.04.2022.



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Thereafter, the Labour Court, Tiruchirappalli. after giving sufficient opportunities to both the sides and also after hearing both, concluded that the Director of National Horticulture Research & Development Foundation (NHRDF) has no power to initiate disciplinary proceedings against the petitioner herein by its order, dated 16.11.2022. The order copy was produced for reference. The Labour Court, Tiruchirappalli has discussed all the points raised by the petitioner and answered the same. Challenging the order, the respondents have preferred the Writ Petition in W.P(MD)No.1916 of 2023 before this Court and the same is pending for disposal.

6. At this juncture, we are constrained to quote here the earlier litigations of parties herein that in the same proceeding in I.D.No.100 of 2010, the petitioner preferred the Writ Petition in W.P(MD)No.3222 of 2018 before this Court as against the dismissal order of I.D.No.100 of 2010 on 28.03.2017. The said order, dated 28.03.2017 was quashed and remanded back for deciding afresh as per order of the learned Single Judge, dated 27.03.2018 passed in W.P.(MD)No.3222 of 2018. Against which, the respondent preferred the Writ Appeal in W.A(MD)No.1052 of 2018 before



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this Court and the same was dismissed on 07.09.2018. Subsequently, the Labour Court, Tiruchirappalli dismissed the I.D.No.100 of 2010 on 22.10.2018. Once again, the petitioner preferred the Writ Petition in W.P(MD)No.25060 of 2018 before this Court and the same was allowed on 28.11.2019. The respondents filed a review application in Rev.Aplc(MD)No.5 of 2010 and the same was dismissed on 03.09.2020. Thereafter, the respondents preferred the Writ Appeal in W.A(MD)No.1215 of 2020, which was partly allowed and the matter was again remanded back to decide as to whether the Director of National Horticulture Research & Development Foundation has the power to initiate the disciplinary proceedings against the petitioner or not. The petitioner again preferred this present Review Petition. In the meanwhile, the Labour Court, Tiruchirappalli held that the 1st respondent has no power and challenging the said order the respondent preferred the Writ Petition in W.P.(MD)No.1916 of 2023 and the same is pending. From the above facts, it is clear that the parties to I.D.No.100 of 2010 have chosen to file the Writ Petition, Writ Appeal or Review Petition, again and again, vice versa for the past 15 years. The present petition is filed by the petitioner to review the order passed in



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W.A(MD)No.1215 of 2020, which became infructuous after passing orders by the Courts.

7. In such circumstances, this Review Application has become infructuous and also there is no error apparent on the face of the records.

8. In the result, this Review Application is dismissed. No costs.

(N.S.S.,J.) (P.V.M.,J.)
08.11.2024

Index : Yes/No
Internet : Yes/No
VSD

To

The Labour Court,
Trichirappalli.



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N.SESHASAYEE, J.
AND
P.VADAMALAI. J.

Pre-delivery Judgment made in
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in
W.A(MD)No.1215 of 2020

08.11.2024