



REVAPLC(MD).No.72 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and**

THE HONOURABLE MS.JUSTICE R.POORNIMA

REV.APLC(MD)No.72 of 2024

in

W.A(MD)No.1940 of 2021

R.Malathi

... Petitioner /
Respondent

v.

1.The Additional Chief Secretary to
The Government of Tamilnadu,
Home Department (Transport – II A),
Secretariat, Chennai – 600 009.

2.The Transport Commissioner,
Chepauk,
Chennai – 5.

... Respondents /
Appellants

PRAYER: Review Application filed under Order 47 Rule 1 & 2 r/w
Section 114 of CPC to review the order passed by this Court in
W.A(MD)No.1940 of 2021 dated 20.12.2021.



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For Petitioner : Mr.B.Saravanan
Senior Counsel
for Mr.C.Jeganathan

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader

ORDER

Heard the learned Senior Counsel appearing for the review applicant and the learned Additional Government Pleader appearing for the respondents.

2.The review applicant was working as Superintendent in the office of RTO, Madurai. Charge memo was issued against her and ultimately punishment was imposed by the appellate authority (Transport Commissioner). Challenging the same, the review applicant filed W.P(MD)No.20038 of 2019. It was allowed vide order dated 08.11.2019 by placing reliance on the decision of the Hon'ble Supreme Court reported in *(1995) 2 SCC 474 (Surjit Ghosh Vs Chairman & Managing Director, United Commercial Bank & Others)*. Challenging the same, the department filed W.A(MD)No.1940 of 2021. The Writ Appeal was allowed and the order passed by the learned Single Judge was set aside



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vide order dated 20.12.2021. Aggrieved by the same, this Review Application has been filed.

3.The learned Senior Counsel appearing for the writ petitioner / review applicant points out that the appointing authority was the Joint Transport Commissioner. Admittedly, as per Rule 4 of G.O(Ms)No.958 Home Transport Department dated 02.05.1978, the Transport Commissioner was the appellate authority. The learned Senior Counsel further pointed out that the Hon'ble Supreme Court in ***Surjit Ghosh Vs Chairman & Managing Director, United Commercial Bank & Others*** held that if the appellate authority takes over the function of the disciplinary authority and impose punishment, the delinquent would be deprived of the substantive right of appeal.

4.This argument is no doubt formidable and attractive. But then, as rightly pointed out by the learned Additional Government Pleader, this point was specifically considered by the Hon'ble First Bench which allowed W.A(MD)No.1940 of 2021. The Hon'ble First Bench felt that the aforesaid decision will not have any application since Rule 12 of the Tamil Nadu Civil Services (D & A) Rules, 1955 is applicable to the case on hand



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also. It is well settled that a Review Application cannot be argued as an appeal in disguise. Only if the error is apparent on the face of the record, this Court would be justified in interfering. In this case, the point now urged by the learned Senior Counsel was specifically dealt with by the Hon'ble First Bench and reasons have been set out for rejecting the same. We are of the view that in exercise of review jurisdiction, we cannot consider the contention advanced by the learned Senior Counsel.

5.This Review Application stands dismissed. There shall be no order as to costs.

[G.R.S., J.] [R.P., J.]
22.01.2025

Index :Yes/No
Internet:Yes/No
NCC :Yes/No
MGA

To

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and

R.POORNIMA, J.

MGA

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in

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