

Court No. - 39

Case :- CIVIL MISC REVIEW APPLICATION No. - 222 of 2023

Applicant :- Arvind Kumar Pandey

Opposite Party :- Ganga Ram And 8 Others

Counsel for Applicant :- Prabhakar Awasthi, Dhananjay Kumar Mishra

Counsel for Opposite Party :- C.S.C., Shishir Kumar Srivastava

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Vikas Budhwar, J.

1. Heard Sri Prabhakar Awasthi, learned counsel along with Sri Dhananjay Kumar Mishra, learned counsel for the applicant and learned Standing Counsel for the State.

2. Present review application has been filed carrying inordinate delay of 516 days. Also the application has been filed and is being pressed by a set of counsel, who had not appeared in the original proceedings. In fact, on query made, it is clear that the present applicant was not even a party to the writ proceedings.

3. Besides the above deficiency in the review application, it is undisputed that Writ-A No. 14072 of 2021 Ganga Ram and others vs. State of U.P. and others came to be dismissed with following observations:-

"19. Considering the entire facts and circumstance and the provisions of the Rule 5(2) (b) of Service Rules, 2003 under challenge and the other relevant Rules, we do not find any unconstitutionality in the impugned provisions. The writ petition is wholly devoid of merit and, therefore, deserves to be dismissed.

20. For all the reasons aforesaid, the writ petition is dismissed. The provisions of Rule 5(2)(b) of Service Rules, 2003 is held to be valid.

21. After this judgment was dictated in open court, learned counsel for the petitioner states that the consideration of the petitioners for promotion are being held up by the State Government on one pretext or the other.

22. Be as it may, we feel it appropriate to observe that the State Government shall proceed forthwith to consider for promotion of Revenue Inspectors to the post of Naib Tehsildar, in accordance with law, provided there is no legal impediment."

4. The case being attempted to set up in review application is that the above

judgement is causing prejudice to the applicant.

5. Since the above order is an order of dismissal, on further query made, Sri Prabhakar Awasthi states that the present applicant has filed Writ-A No. 10613 of 2022 assailing the validity of Rule 5 (2) (a) and Rule 5 (2) (b) of the U.P. Subordinate Revenue Executive (Naib Tehsildar) Service Rules, 2003 as amended by the Second Amendment Rules, 2014.

6. Be that as it may, insofar as the applicant in review was not party in the main proceedings and further, inasmuch as, an independent challenge to the Rules has been raised by him in a separate writ proceedings, which are still pending, leaving it open for the applicant in review to contest those proceedings in accordance with law, the present review application found to be wholly misconceived besides being defective.

7. For the reasons noted above, the present review application is dismissed.

Order Date :- 24.11.2023

Shiraz

(Vikas Budhwar, J.)

(S.D. Singh, J.)