



2024:UHC:4068-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

**HON'BLE JUSTICE SRI MANOJ KUMAR TIWARI AND
HON'BLE SRI JUSTICE PANKAJ PUROHIT**

Writ Petition (S/B) No. 322 of 2015

With

Review Application No. MCC/13895/2024
Delay Condonation Application No. IA/13896/2024

Union of India and others --Petitioners

Versus

Central Administrative Tribunal
and others --Respondents

With

Writ Petition (S/B) No. 320 of 2015

With

Review Application No. MCC/9356/2024
Delay Condonation Application No. IA/9357/2024

Union of India and others --Petitioners

Versus

Central Administrative Tribunal
and others --Respondents

With

Writ Petition (S/B) No. 321 of 2015

With

Review Application No. MCC/9355/2024
Delay Condonation Application No. IA/9356/2024

Union of India and others --Petitioners

Versus

Central Administrative Tribunal
and others --Respondents

Mr. V.K. Kaparuwan, Advocate for the petitioners
Mr. Darshan Singh, Advocate for the respondents in WPSB
No. 322 of 2015
Mr. Parikshit Saini and Mr. S.K. Pandey, Advocates for the
respondents in WPSB No. 320 of 2015 and WPSB No. 321 of
2015

The Court made the following:

JUDGMENT: (per Hon'ble Justice Sri Manoj Kumar Tiwari)

1. There is delay of 159 days in filing Review
Applications. Delay is condoned. Accordingly, Delay



Condonation Applications stand disposed of.

2. Since these three Review Applications involve common issue, they were heard together and are being decided by this common judgment. However, for the sake of brevity, facts of Review Application (MCC/13895/2024) alone, are being considered and discussed.

3. Union of India has filed application seeking review of the judgment dated 11.06.2024. It is contended that respondents are not eligible for M.A.C.P as their length of service falls short of 24 years which is required for grant of 3rd up-gradation under M.A.C.P.

4. Per contra, Mr. Darshan Singh, learned counsel appearing for the respondents submits that respondents were paid grade pay of Rs. 2,000/-, which does not exist in the hierarchy of posts in Ministry of Defense. He submits that learned Tribunal has, after considering all relevant aspects, allowed the Original Application filed by respondents and this Court also dealt with all contentions raised by Union of India and dismissed the writ petition.

5. He submits that petitioners want to reargue the case under the garb of review application which is not permissible. He submits that decision even if erroneous, cannot be corrected in review application.

6. We find substance in the contention raised by learned counsel for the respondents.

7. Hon'ble Supreme Court in the case of Meera Bhanja Vs Nirmala Kumari Chaudhary reported in (1995) 1 SCC



170, while dealing with the scope of review jurisdiction has held as under:-

“8. It is well settled that 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, CPC. In connection with the limitation of the powers of the court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of Aribam Tuleshwar Sharma v. Aribam Pishak Sharmal, speaking through Chinnappa Reddy, J., has made the following pertinent observations: (SCC p. 390, para 3) 1 (1979) 4 SCC 389: AIR 1979 SC 1047 "It is true as observed by this Court in Shivdeo Singh v. State of Punjab², there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.

15. In our view the aforesaid approach of the Division Bench dealing with the review proceedings clearly shows that it has overstepped its jurisdiction under Order 47, Rule 1 CPC by merely styling the reasoning adopted by the earlier Division Bench as suffering from a patent error. It would not become a patent error or error apparent in view of the settled legal position indicated by us earlier. In substance, the Review Bench has re-appreciated the entire evidence, sat almost as court of appeal and has reversed the findings reached by the earlier Division Bench. Even if the earlier Division Bench's findings regarding C.S. Plot No. 74 were found to be erroneous, it would be no ground for reviewing the same, as that would be the function of an appellate court. Learned counsel for the respondent was not in a position to point out how the reasoning adopted and conclusion reached by the Review Bench can be supported within the narrow and limited scope of Order 47, Rule 1 CPC. Right or wrong, the earlier Division Bench judgment had become final so far as the High Court was concerned. It could not have been reviewed by reconsidering the entire evidence with a view to finding out the alleged apparent error for justifying the invocation of



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review powers. Only on that short ground, therefore, this appeal is required to be allowed. The final decision dated 8-7-1986 of the Division Bench dismissing the appeal from Appellate Decree No. 569 of 1973 insofar as C.S. Plot No. 74 is concerned as well as the review judgment dated 5-9-1984 in connection with the very same plot, i.e., C.S. Plot No. 74, are set aside and the earlier judgment of the High Court dated 3-8-1978 allowing the second appeal regarding suit Plot No. 74 is restored. The appeal is accordingly allowed. In the facts and circumstances of the case, there will be no order as to costs."

8. We do not find any error apparent on the face of record, which may warrant invocation of review jurisdiction. Accordingly, Review Applications stand dismissed.

MANOJ KUMAR TIWARI, J.

PANKAJ PUROHIT, J.

Dt: 3rd July, 2025
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