



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Review Pet. No. 7 of 2024

Date of Decision: 11.04.2025

1. Smti. Amanda B. Basaiawmoit,
D/o (L) James P. Suting,
R/o Lower Nongrim Hills, Shillong,
East Khasi Hills District,
Meghalaya
2. Shri. Batskhem Myrboh
S/o Shri. Khin Lyngdoh
R/o Thangsning, East Khasi Hills
District, Meghalaya
3. Shri. Kerlihok Lyngdoh Buam
S/o Shri. Ehbok Rynjah
R/o Central Nongrim Hills (House No. C/o-014)
East Khasi Hills District, Meghalaya.

.....Review Petitioners

-Versus-

1. State of Meghalaya
Represented by Commissioner &
Secretary to the Govt. of Meghalaya,
Education Department, Shillong.
2. The Principal Secretary to the Govt. of Meghalaya
Education Department, Shillong
3. The Joint Secretary to the Govt. of Meghalaya,
Education Department, Shillong.
4. Director of Higher & Technical Education,
State of Meghalaya, Shillong.
5. Joint Director of High & Technical Education,
State of Meghalaya, Shillong.



6. The Director, Directorate of Local Fund Audit,
State of Meghalaya, Shillong

.....Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Sen, Adv.
Ms. E. Blah, Adv.

For the Respondent(s) : Mr. K.P. Bhattacharjee, GA
Ms. S. Shyam, GA

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

Per W. Diengdoh, J.

JUDGMENT

1. An order dated 06.03.2024 passed in WP(C) No. 246 of 2022 by a learned single Judge of this Court came to be challenged in an intra-court appeal before a division bench of this Court, the same being registered as WA No. 18 of 2024. This Court in the division bench vide order dated 13.06.2024 has dismissed the appeal for the reasons stated therein.

2. The petitioners maintaining that in the passing of the said judgment dated 13.06.2024, grave and manifest error has occasioned, this instant review petition was preferred on the grounds cited therein.



3. A brief background fact of the case revealed that the petitioners are teachers in deficit colleges serving as Assistant Professors in Shillong College and Synod College respectively, in the State of Meghalaya.

4. The Ministry of Human Resource Development, in the year 2008 had formulated a scheme providing for two pay bands for teachers of universities and colleges, giving opportunity for teachers for upward movement in their profession and place of employment. The Government of Meghalaya has adopted the said scheme dated 31.12.2008 vide letter dated 23.03.2010.

5. In this respect, the Joint Director, Higher & Technical Education vide communication dated 24.08.2020 addressed to the Joint Secretary to the Government of Meghalaya, Education Department has acknowledged entitlement of teachers of both government colleges as well as deficit colleges to the additional/promotional increment on their placement at each higher stages of academic grade pay as per UGC Regulations 2010 and the same was requested to be extended to the teachers so entitled.

6. However, since the said benefit of granting additional increment(s) on their placement at the higher stages of the academic grade pay as per the said UGC Regulations 2010 was not given to them, the petitioners have approached a single bench of this Court with a Writ Petition No. 246 of 2022. The same was dismissed vide judgment and order dated 06.03.2024, the Court holding that the case being hit by



delay and laches, whatever rights derived from the scheme, are no longer available to them (petitioners).

7. Being aggrieved and dissatisfied with the said judgment dated 06.03.2024, the review petitioners have moved this Court with an intra-court appeal being WA No. 18 of 2024. This Court on consideration of the prayer in the appeal, has, vide order dated 13.06.2024 dismissed the same holding that the rejection of the writ petition by the learned Single Judge of this Court on delay and laches is justified and that the Professors have acquiesced their rights.

8. Heard Mr. S. Sen learned counsel for the review petitioners who has submitted that the review petitioners are aggrieved by the findings of the learned Single Judge wherein the writ petition was dismissed on the ground of apparent delay in approaching the relevant authorities or even this Court. However, the main focal point of the writ petitioners is the communication dated 24.08.2020 (*supra*) which was followed by a representation before the said relevant authorities and subsequently, no response was received, the writ petition was filed. This aspect of the matter has not figured in the impugned judgment of the learned Single Judge. Hence the appeal.

9. Mr. Sen further went on to submit that one of the grounds of appeal at para 6.3 of the memo of appeal was the non-consideration of the learned Single Judge of the relevance of the said communication dated 24.08.2020, which ought to have been taken up by this Court on appeal. However, this Court in the impugned judgment dated 13.06.2024 has not taken into consideration the import and impact of the said



communication dated 24.08.2020 as far as the case of the review petitioners is concerned.

10. There having occurred an error apparent on the face of the record, for non-consideration of relevant materials, this Court is implored upon to allow the plea of the review petitioners and to review/modify or recall the said order dated 13.06.2024 and to restore the WA No. 18 of 2024 for fresh consideration.

11. In support of his case, the learned counsel has cited the case of Arun Dev Upadhyaya v. Integrated Sales Service Ltd. & Anr., (2023) 8 SCC, para 31.

12. Mr. K.P. Bhattacharjee, learned GA appearing for the State/respondent has resisted the argument made by the learned counsel for the review petitioners to say that this instant petition is nothing but an attempt to set up another appeal in the guise of a review. To substantiate his claim, the learned GA has pointed to the grounds made in this review petition, that is, grounds at para 7(a) to 7(j) which do not point out to any error apparent on the face of record. What the petitioners herein have done is to try to find fault with not only the judgment of this appellate Court, but also of the related judgment of the learned Single Judge which is not permissible in this jurisdiction.

13. Since this Court in its appellate jurisdiction has dismissed the appeal on the ground of delay and laches, having gone through the records and the impugned judgment of the learned Single Judge, the question of giving a finding on any other aspect of the matter, including the alleged non-consideration of the said communication dated



24.08.2020 and other representations made by the petitioners before the authorities, under the circumstances will not be material to the case of the parties, further submits the learned GA.

14. To buttress his contention, the learned GA has referred to the following cases:

- i) Seven City Developers Pvt. Ltd. v. State Meghalaya & Ors., MC (Review Pet.) No. 5 of 2018, para 2, 6, 7 & 9;
- ii) High Court of Tripura through the Registrar General v. Tirtha Sarathi Mukherjee & Ors., (2019) 16 SCC 663, para 24;
- iii) Bichitrananda Behera v. State of Orrisa & Ors., 2023 SCC Online SC 1307, para 16, 20 & 21;
- iv) Union of India & Ors. v. A. Durairaj (dead) by Lrs., (2010) 14 SCC 389, para 11, 13, 14 & 21.

15. Having heard the argument advanced by the learned counsels for the respective parties, this Court is minded of the provision of Order XLVII Rule (1) of the Code of Civil Procedure, 1908 which reads as follows:

“Order XLVII

REVIEW

1. Application for review of judgment.—(1) Any person considering himself aggrieved—

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,



- (b) by a decree or order from which no appeal is allowed, or
- (c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.”

16. The principle of review which would be resorted to by a party seeking a relook at the decree or order passed by the court of competent jurisdiction would be maintainable on the following grounds:

- i. Discovery of new and important matter of evidence which, after exercise of due diligence was not within the knowledge of the petitioner or could not be reproduced by him at the relevant point of time in course of proceedings;
- ii. Mistake or error apparent in the face of record; and
- iii. Any other sufficient reasons.

17. From the submission of the parties and the facts as indicated herein above, it is noticed that the one point canvassed by the review



petitioners is that apparently a mistake has occurred in the passing of the judgment in question inasmuch as the significance and importance of the said communication dated 24.08.2020 (supra) was missed out by this Court while hearing the appeal, consideration of which would greatly affect the case and cause of the review petitioners/appellants.

18. It is also well settled that the court in its exercise of review jurisdiction has to be very diligent and circumspect to ensure that the agitating party is not allowed to persuade the court to rehear the appeal for a fresh decision to follow. In the case of Sanjay Kumar Agarwal v. State Tax Officer & Anr., 2023 SCC Online SC 1406 at para 10 and 11 the Hon’ble Supreme Court has held as follows:

“10. It is also well-settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

11. In Parsion Devi v. Sumitri Devi [(1997) 8 SCC 715], this Court made very pivotal observations:

“9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered has a limited purpose and cannot be allowed to be “an appeal in disguise”.”



19. This same principle was also observed by the Hon'ble Supreme Court in the case of High Court of Tripura through the Registrar General (supra) at para 24 wherein it was observed that "*The review, it must be noted is not a re-hearing of the main matter. A review would lie only on detection without much debate of an error apparent....*"

20. Yet again, the same principle was reiterated by the Hon'ble Supreme Court in the case of Arun Dev Upadhyaya v. Integrated Sales Service Ltd. (supra) at para 31 of the same, reliance upon which was placed by the review petitioners. The same reads as follows:

"31. Another case which may be briefly dealt with is Parsion Devi v. Sumitri Devi [(1997) 8 SCC 715], where, this Court ruled that under Order 47 Rule 1 CPC, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review. It is also observed that a review petition cannot be allowed to be treated as an appeal in disguise."

21. This Court in the case of Seven City Developers Pvt. Ltd. (supra) relied upon by the learned GA for the State respondent at para 7 has observed as follows:

"7. Of the three principal classes of grounds that may be invoked in course of a review, the most common is the first count of there being an error apparent on the face of the order. The kind of error that can be regarded as an error within the meaning of the expression "error apparent on the face of the order" is a mistake which is obvious and which, ordinarily, is not required to be brought out with reference to any other material, but the same is self-evident in the sense that it is evident upon a plain reading of the order itself. It must also be added that the fourth class of grounds has to be seen to be *ejusdem generis* with the three



classes of grounds that precede it. In short, any or every mistake or any or every error, particularly an error in the interpretation or an error in the analysis or perception may not be an appropriate ground to invoke the jurisdiction or review.”

22. Again, at para 6 of the said case of Seven City Developers Pvt. Ltd., this Court has again observed “...Essentially, a review may be maintained when there is some error apparent on the face of the record or the order under review; or, when some material which was before the adjudicating authority was not taken into account despite it having a significant bearing on the issues involved;...”.

23. This Court on perusal of the judgment and order dated 06.03.2024 passed by a learned Single Judge of this Court has noticed that on the submission of the parties a passing observation was made to the said communication of the Joint Director, Higher & Technical Education dated 24.08.2020, however, no discussion or decision has been made in this regard.

24. In the related appeal filed before this Court one of the grounds cited by the appellants/review petitioners for preferring the appeal is the non-consideration of the learned Single Judge as far as the reference made by the writ petitioners/review petitioners to the said communication dated 24.08.2020 is concerned.

25. This Court in its order dated 13.06.2024 passed in WA No. 18 of 2024 (the same being under review herein), has upheld the decision of the learned Single Judge and has reiterated that the writ petition being debarred by delay and laches on the part of the appellants/writ petitioners in approaching this Court, the appeal was dismissed.



26. There was no discussion or findings made as regard the stand made by the appellants on the said communication dated 24.08.2020. Evidently, on doing so, there has occurred an error apparent on the face of record, the said communication dated 24.08.2020 not finding place in the impugned judgment.

27. Accordingly, on this Court being made aware of such error, we find that the review petitioners have been able to make out a case for reconsideration of the judgment dated 13.06.2024 (supra).

28. This petition is accordingly allowed, the judgment dated 13.06.2024 passed in WA No. 18 of 2024 is hereby recalled. The appeal is restored and to be heard on merits.

29. Parties are directed to be heard in the matter on the next date fixed.

30. List the appeal on 01.05.2025 for hearing.

31. Petition disposed of. No costs.

(B. Bhattacharjee)
Judge

(W. Diengdoh)
Judge