

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMP(M) No.1680 of 2025

Decided on: 29th December, 2025

Santosh Kumar

.....**Petitioner**

Versus

State of H.P. and others

.....**Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioner: Mr. Rajiv Rai, Advocate.

For the Respondents: Mr. L.N. Sharma, Additional Advocate
General, for respondents No.1 and 2.

Jyotsna Rewal Dua, Judge

Santosh Kumar Versus State of H.P. & Ors.² was instituted by the petitioner assailing the award dated 21.09.2022 passed by the learned Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, whereby reference was decided against him. The writ petition was dismissed on 11.07.2024. Petitioner now seeks review of the said decision. Prayer for condoning the delay in instituting the review petition has also been made.

¹ Whether reporters of print and electronic media may be allowed to see the order? Yes

² CWP No.6595 of 2024, decided on 11.07.2024

2. **Heard** learned counsel for the petitioner and considered the case file.

3. The main ground urged for seeking review is that even though the petitioner had accepted the decision rendered in *Santosh Kumar*², but ‘recently’, he became aware of the fact that one Sh. Prem Lal had not been given fresh appointment, but was reinstated on the same post, from which his daily wage service was terminated, on the strength of acquittal in a criminal case. Reference in this regard was made to an office order dated 14.11.2014 passed in case of Sh. Prem Lal.

4. *Santosh Kumar*² was a writ petition wherein the petitioner had assailed the award dated 21.09.2022 passed by the learned Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, deciding the reference against the petitioner. It was for the petitioner to rely upon the documents in support of his case at the relevant time. It was for him to have been vigilant about the material evidence in support of his case.

The principles for reviewing a decision were summed up in ***Sanjay Kumar Agarwal Versus State Tax Officer (1) and another***³ as under:-

³ (2024) 2 SCC 362

“16. The gist of the aforestated decisions is that:

16.1. A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

16.2. 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.

16.3. 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 record justifying the court to exercise its power of review.

16.4. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected".

16.5. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise".

16.6. Under the guise of review, the petitioner cannot be permitted to reargue and reargue the questions which have already been addressed and decided.

16.7. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

16.8. Even the change in law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review."

Further, in ***Malleeswari Versus K. Suguna and another***⁴, Hon'ble Apex Court held that review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Power of review is different from the appellate power. Following limitations were laid down for maintaining the finality of judicial decisions:-

⁴ 2025 SCC OnLine SC 1927

- “15.1 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 of CPC⁵.*
- 15.2 Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court⁶.*
- 15.3 In exercise of the jurisdiction under Order 47 Rule 1 of 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 disguise⁷.*
- 15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power⁸.*
- 15.5 The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered⁹. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors¹⁰.”*

It was further held that though through a review application, an apparent error of fact or law is intimated to the Court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the Court to correct apparent errors instead of higher court correcting such errors. At both the stages, detailed reasoning is not warranted. Distinction between power of review and appellate power as also the power & scope of review jurisdiction was summed up as under:-

⁵ (1995) 1 SCC 170

⁶ (1979) 4 SCC 389

⁷ (1997) 8 SCC 715

⁸ (2000) 6 SCC 224

⁹ (2009) 14 SCC 663

¹⁰ AIR (1963) SC 1909

- “17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.*
- 17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record¹¹. Such an error is a patent error and not a mere wrong decision¹². An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record¹³.*
- 17.3 Lastly, the phrase ‘for any other sufficient reason’ means a reason that is sufficient on grounds at least analogous to those specified in the other two categories¹⁴.”*

Applying the above principles to the facts of the instant case, the alleged ground of discovery of new and important matter is actually an order passed in 2014. The award was passed by the learned Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala on 21.09.2022. It was for the petitioner to have exercised due diligence. There is no mistake or error apparent on the face of record. Petitioner is only seeking reconsideration of the entire case, which had travelled to this Court from the learned Labour Court, by endeavouring to place on record the documents, which were admittedly not on the record of

¹¹ (1955) 1 SCR 1104

¹² AIR (1954) SC 440

¹³ AIR (1960) SC 137

¹⁴ 1922 SCC OnLine PC 11; AIR (1954) SC 526

learned Labour Court. No case for review is, thus, made out.

Even otherwise, no cogent reasons have been given by the petitioner for condoning the delay of about 418 days in instituting the Letters Patent Appeal (sic Review Petition). The decision was rendered on 11.07.2024. Save and except averring that the petitioner 'recently' came to know about an order passed on 14.11.2014 in case of one Sh. Prem Lal, no other explanation has been given for condoning the delay. The delay has not been cogently explained.

5. For the foregoing reasons, no case for review of the judgment in question or for condoning the delay in filing the review petition is made out. Accordingly, the present application for condonation of delay is dismissed. Consequently, the main review petition is also dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

December 29, 2025
Mukesh

Jyotsna Rewal Dua
Judge