

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Case No: RP 63/2023
CM (1706/2023)
c/w
CCP(S) 30/2023**

Reserved on: 03.07.2026
Pronounced on: 10.07.2026
Uploaded on: 10.07.2026

Whether the operative part or full
Judgment is pronounced :**Full**

1. Union of India
Through Ministry of defence,
Govt. of India, New Delhi.
2. Commanding Officer, 141 EME
Bn,(Comd.) C/O 56 APO
3. Commanding Officer, 193 Fd.
Wksp Coy.(Static)
C/O 56 APO.

...Petitioner(s)/Appellant(s)

Through: Mr. Vishal Sharma, DGSC with
Mr. Karan Sharma, CGSC

v/s

Narender, aged 29 years
S/O Om Parkash, R/O VPO Chatar,
Tehsil Narwana,
District Jind, Haryana.

.... Respondent(s)

Through: Mr. Vinayak Phull, Advocate

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

JUDGMENT

1. By way of the instant petition, the petitioners seek a review of the
judgment dated May 21, 2022, passed by this Court in WP(C) No.

1968/2020, whereby, this Court directed the petitioners to proceed in terms of the provisional offer of appointment, dated July 8, 2016, issued in favour of the respondent-writ petitioner for the post of MTS and Labour/Mazdoor (General Category).

2. Briefly stated, the facts are that the respondent was provisionally selected for the post of MTS pursuant to a recruitment process initiated in the year 2016. However, before the process could be finalized, certain unsuccessful candidates filed SWP Nos. 1573/2016 and 184/2017, effectively stalling the recruitment. During the pendency of that litigation, the validity of the NACs expired. The said writ petitions were dismissed in default on October 3, 2019, following which a restoration application was filed. Subsequently, the respondent filed WP(C) No. 1968/2020 seeking implementation of their provisional offer of appointment. This writ petition was allowed by judgment dated May 21, 2022, wherein the Court held that there was no legal impediment to proceed with the appointment despite the pendency of the earlier litigation.
3. The petitioners seek a review of the judgment on the ground that after it was rendered, the matter was referred to the Directorate General of EME for an extension of the expired NAC. However, the Directorate declined the request, noting that the Ministry of Defence had, with effect from January 2018, placed all recruitment activities including the grant or extension of NACs on hold, except for specific one-time approved cases. The Directorate further relied upon subsequent policy decisions halting the direct recruitment of civilian employees, as well

as Supreme Court judgments holding that the creation or filling of posts is an executive function and that no appointment can be made where no vacancy exists. The petitioners assert that these policy decisions and communications were not within the knowledge of the local authorities when objections were filed in the writ petition and, consequently, could not be brought to the Court's notice. They contend that had these material facts been placed before the Court, they would have fundamentally altered the outcome of the case.

4. The respondent raises a preliminary objection to the maintainability of the review petition, submitting that it satisfies none of the criteria under Order XLVII Rule 1 of the CPC, as it discloses neither an error apparent on the face of the record nor any discovery of new evidence. Instead, the petitioners are merely seeking to re-argue the case to delay compliance. On the merits, respondent submits that his selection dates back to 2016, culminating in a provisional offer of appointment on July 8, 2016. Therefore, subsequent policies halting fresh recruitment do not apply retrospectively to his vested rights. Furthermore, while SWP No. 1573/2016 was pending, no stay order was ever granted by the High Court, meaning the petitioners have no legal justification for withholding his appointment during that period. Lastly, the respondent highlights that the Ministry of Defence granted a one-time NAC extension to 9,250 similarly situated candidates, making his exclusion highly arbitrary. Asserting that the review petition is entirely meritless, the respondent seeks its dismissal with exemplary costs.

5. I have heard learned counsel for the parties and considered the material placed on record.
6. The scope of review jurisdiction is well settled. Review is not an appeal in disguise. It can be exercised only where there exists an error apparent on the face of the record, discovery of new and important matter which, despite due diligence, was not within the knowledge of the applicant or could not be produced earlier, or for any other sufficient reason analogous thereto. It is equally settled that a review cannot be entertained merely because another view is possible or because a party seeks to supplement or improve the case already decided.
7. In paragraph 11 of the review petition, the petitioners submit that the petition is maintainable owing to the discovery of a new and important fact which, despite the exercise of due diligence, was not within their knowledge at the time of adjudication. **Order XLVII Rule 1 of the Code of Civil Procedure, 1908**, mandates that any person considering themselves aggrieved by a decree or order may seek a review upon the discovery of a new and important matter or evidence which, despite the exercise of due diligence, was not within their knowledge or could not be produced at the time the order was passed. However, in the present case, the petitioners, who are the respondents in the main writ petition, have stated in paragraph 9 of the review petition that the objections filed by the local authorities did not highlight the aforesaid facts/policy decisions, which were allegedly not within the knowledge of the defending department despite due

diligence. This argument cannot be accepted. The petitioners cannot rely on clever drafting or a play on words to claim ignorance of their own policies. Consequently, this Court is of the considered view that the petitioners have failed miserably to establish any ground that would warrant the invocation of this Court's review jurisdiction.

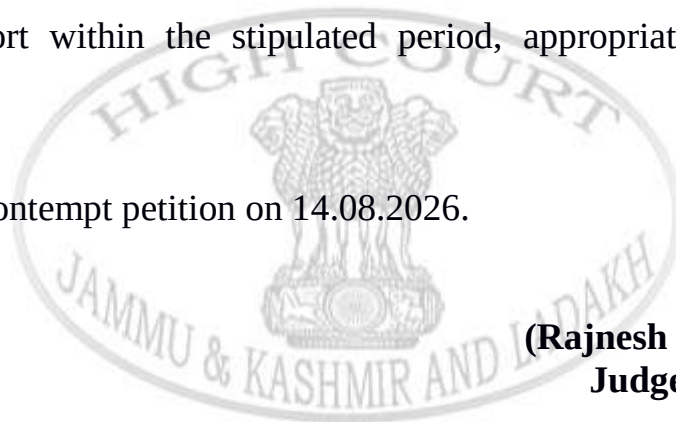
8. Even otherwise, the communication dated April 18, 2022, clearly records that the Ministry of Defence accorded approval for the extension of the validity of NACs in 9,250 cases as a one-time measure. Once such blanket approval was granted by the Ministry, there is no justifiable reason to deny the same benefit to the respondent. The respondent was deprived of his provisional offer of appointment to the post of MTS and Labour/Mazdoor (General Category) solely due to litigation initiated by unsuccessful candidates. This is particularly so when no interim order or direction had been passed by the High Court in the writ petitions filed by the unsuccessful candidates.
9. The law governing the scope of review is no longer res integra. In **Lily Thomas v. Union of India**, 2000(6) SCC 224, it was held by the Hon'ble Supreme Court that review is by no means an appeal in disguise and cannot be entertained merely for a fresh hearing or correction of an erroneous decision on merits. The same principle has been reiterated by the Hon'ble Supreme Court in **State of West Bengal v. Kamal Sengupta**, 2008 (8) SCC 612, wherein it has been held that review jurisdiction cannot be exercised for re-appreciation of evidence or for substituting one possible view by another.

10. This Court finds no patent error apparent on the face of the record, nor has any new or important matter been brought to light which could not have been produced earlier despite the exercise of due diligence. The grounds urged by the petitioners essentially seek a reconsideration of the case on its merits, an exercise which is strictly impermissible within the narrow confines of review jurisdiction. Consequently, the Review Petition, being devoid of merit, is **dismissed**. The judgment dated 21.05.2022 shall remain unaltered. Pending application(s), if any, shall also stand disposed of.

CCP(S) No. 30/2023

The respondents-contemnors are granted a final opportunity of four weeks to file the compliance report in terms of the judgment dated 21.05.2022. It is made clear that, in the event of failure to file the compliance report within the stipulated period, appropriate orders shall follow.

List this contempt petition on 14.08.2026.



(Rajnish Oswal)
Judge

Jammu

10.07.2026

Madan Verma-Secy

Whether order is speaking? **Yes.**
Whether order is reportable? **No.**