

HIGH COURT OF CHHATTISGARH, BILASPUR

Review Petition No. 98 of 2015

1. State Of Chhattisgarh , Through- The Secretary, Department Of Irrigation, Govt. Of Chhattisgarh, Mahanadi Bhavan, P. O. Rakhi, Naya Raipur, District- Raipur (Chhattisgarh), (Respondent No. 1)
2. The Engineer- In- Chief, Water Resources Department, Mahanadi Bhawan, New Mantralaya, Raipur (Chhattisgarh), (Respondent No. 2)
3. The Chief Engineer, Hasdeo Kachhar Water Resources Department, Bilaspur (Chhattisgarh), (Respondent No. 3)
4. The Superintendent Engineer, Maniyari Hasdeo Division, Bilaspur (Chhattisgarh), (Respondent No. 4)
5. The Executive Engineer, Water Resources Division, Pendra Road, District- Bilaspur (Chhattisgarh), (Respondent No. 5)

---- Petitioner

Versus

Naval Kishore Mishra S/o Shri Ambika Prasad Mishra, Aged About 67 Years R/o Village- Harratola, Post- Lalpur, Tehsil - Pendra Road, P. S. Pendra, District- Bilaspur (Chhattisgarh)..... (Petitioner)

---- Respondent

For Petitioner/State:

Shri B. Gopa Kumar, Dy. Advocate General.

Single Bench: Hon'ble Shri P. Sam Koshy, J
Order On Board

18.09.2015

The present Review Petition has been filed seeking for review of the order dated 17.4.2015 passed by this Court in W.P.(S) No1045/2014.

2. According to the State counsel, there were certain factual aspects which the State could not bring to the notice of the Court while the Writ Petition was being disposed of on 17.4.2015 and it was for this reason that the State has now preferred the instant Review Petition.

3. The present Review Petition is totally misconceived, frivolous and apparently has been filed with a mala fide intention of depriving the Respondent from enjoying the fruits which is to flow from the judgment/order passed by this Court repeatedly.

4. The review is misconceived is apparent from the fact that in the Review Petition in paragraph-3, the State has said as under:-

“.....Subsequently, thereafter, his service was regularized under the work-charged establishment vide order dated 29.1.1999.....the respondent was retired from service on 31.5.2006. The respondent has served about 7 years under the regular establishment and did not complete qualifying service of 10 years for being entitled to get pension.”

Yet in contradiction the State in paragraph-11 says as under:-

“.....since the writ petitioner was not absorbed against any regular pensionable post and the order dated 17.4.2015 (Annexure A/1) may kindly be recalled/reviewed and appropriate order may be passed.”

5. Further the State is also silent about the order dated 2.3.2005 wherein the qualifying service of 10 years for pension was amended and reduced to 6 years.

6. In the Review Petition, the State is also silent about the order passed by this High Court in the case of Lakhanlal on the basis of which the employee in the present case was granted relief.

7. A bare perusal of the order shows that the said Writ Petition was disposed of in the light of a decision rendered in an identical case of one Lakhanlal Vs. State of Chhattisgarh and Ors in W.P.(S) No.5328/2012 decided on 6.11.2013. It is also pertinent to mention that while the Writ Petition was being heard, the counsel appearing for the State made a categorical statement as is reflected from paragraph-7 that the case of the Petitioner is identical to that of Lakhanlal which has been decided and that the State counsel has made a statement that circular of the State Government dated 2.3.2005 which was

annexed with the Petition as Annexure P-4 squarely applies in the case of the Petitioner therein also and on the basis of the said circular, the Petitioner is entitled for the benefit so granted by this Court.

8. It is settled position of law that the scope of review is extremely limited and unless an error apparent on the face of record in the course of passing of judgment has not been pointed out, the matter may not fall within the ambit of review. The review proceedings have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. It is settled by the Supreme Court in a catena of decisions that review jurisdiction is not an appeal in disguise. Review does not amount to re-hearing of the entire matter on merits. A judgment may be open to review if there is a mistake or error which is apparent on the face of the record. In the instant case, the State counsel has not been able to show any such error or mistake in the course of passing the order against which the review is sought.

9. From the documents of the review petition, it appears that the Petitioners seek an opportunity to argue the entire case afresh on merits under the garb of the review petition which otherwise is not permissible nor is tenable in the eyes of law. It is trite at this juncture to refer to certain decisions rendered by the Hon'ble Supreme Court on the question of entertaining the review petition in the matters of **Kerala State Electricity Board vs. Hitech Elctrothermicism & Hydropower Ltd. and others** reported in **(2002) 6 SCC 651**, **Government of T.N. & Others vs. Ananchu Asari and others** reported in **(2005) 2 SCC 332**, **Ajit Kumar Rath vs. State of Orissa and others** reported in **AIR 2000 SC 85**, **Lily Thomas etc. vs. Union of India and others** reported in **AIR 2000 SC 1650** and **Meera Bhanjan vs. Smt. Nirmal Kumar Chowdhary** reported in **AIR 1995 SC 455**.

10. For the foregoing reasons, this Court is of the opinion that present is not

a fit case for reviewing the order dated 17.4.2015 passed in W.P.(S) No.1045/2014.

11. In spite of the cost having been imposed while disposing of the Writ Petition, yet without any rhyme or reason or without even strong legal ground the present Review Petition was being prosecuted shows the highhandedness on the part of the officer concerned who has ordered filing of the present Review Petition, particularly when they were unsuccessful in the Writ Appeal and withdrew the same with liberty to approach the Single Bench. Hence, the Review Petition is dismissed with a further cost of Rs.10,000/- which would be recoverable from the erring officer who deliberately denied the rightful claim of pension of the Respondent/employee.

12. Accordingly, the instant Review Petition is dismissed.

Sd/-
(P. Sam Koshy)
J U D G E

Priya