

CM No.4204 of 2014 and
RA No. 187 of 2014 in
CWP No. 15480 of 2013

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM No.4204 of 2014 and
RA No. 187 of 2014 in
CWP No. 15480 of 2013

RESERVED ON: FEBRUARY 10, 2015

DATE OF DECISION: APRIL 08, 2015

Kiran Rosy

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Gurminder Singh, Senior Advocate with
Mr.RPS Bara, Advocate for the applicant-petitioner.

Mr.Inder Pal Goyat, Additional Advocate General,
Punjab.

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TEJINDER SINGH DHINDSA, J.

The instant review petition has been filed under Order 47 Rule 1 read with Section 151 of Code of Civil Procedure seeking review of the judgment dated 18.11.2013 passed by this Court in Civil Writ Petition No.15480 of 2013.

2. It may be noticed that the challenge in the writ petition was to an order dated 10.12.2010 whereby a major penalty of stoppage of two annual increments with cumulative effect was imposed upon the petitioner. Such penalty was imposed against the backdrop of charges levelled against the petitioner whereby, while posted as Land Acquisition Collector in the Department of Industries and Commerce, State of Punjab and after

announcement of award pertaining to acquisition of land situated in village Patti Mehna (Bathinda), the petitioner had altered the type of some land from Barani to Nehri. Vide judgment dated 18.11.2013, the review of which is being sought, this Court had upheld the order dated 10.12.2010 imposing the major penalty.

3. Learned Senior counsel has contended that in the judgment dated 18.11.2013, this Court had taken cognizance of fact that the matter had been dealt with upto the Chief Minister of the State and had even referred to a note that stood appended as Annexure P7 along with the writ petition and in which there was a reference to a letter dated 21.7.1994. Learned counsel would submit that the letter dated 21.7.1994 was not on record with the writ petition and the same has now been appended as Annexure A3 along with the review petition. Contention raised is that the letter dated 21.7.1994 had been written by the applicant/petitioner to the Deputy Commissioner, Bathinda towards making the change in the award and which was, in turn, referred to the higher authorities i.e. Financial Commissioner and after the same was responded to, the applicant had not taken any further action. It is on the strength of letter dated 21.7.1994 at Annexure A3, review of the judgment dated 18.11.2013 is sought.

4. In **Shivdev Singh and others v. State of Punjab and others**, AIR 1963 SC 1909, it had been held that there is nothing in Article 226 of the Constitution of India to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent the mis-carriage of justice or to correct grave and palpable errors committed by it. It was,

however, held that there are definite limits to the exercise of the power of review. Such power 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 could not be exercised on the ground that the decision was erroneous on merits. That would be within the purview of a Court in appeal.

5. In the instant review petition, it has nowhere been averred that inspite of due diligence, the letter dated 21.7.1994 was not placed on record before the writ Court. It also cannot be the case of the review applicant that such letter dated 21.7.1994 is an important piece of evidence which has been discovered later on, inasmuch as, concededly the applicant herself was the author of such letter dated 21.7.1994.

6. Clearly, an attempt is being made to seek denovo and fresh hearing in the garb of the letter dated 21.7.1994. The same is not permissible.

7. Accordingly, the present review petition and also C.M.No.4204 of 2014 seeking condonation of delay of 104 days in filing the review application are dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

APRIL 08, 2015
SRM

Note: *Whether referred to the Reporter? (Yes/No)*