

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Review Petition No. 06 of 2016**

1. Khubu Das Manikpuri son of Nirmal Das Manikpuri, aged about 52 years, resident of Village Aamgaon, Tehsil Jaijaipur, Police Station and Civil and Revenue District Janjgir Champa (CG).

---- Petitioner**Versus**

1. State of CG through the Secretary, Public Works Department, Mantralaya, Raipur (CG)
2. Sub Divisional Officer, Public Works Department (B&R) Sub-DN, Kasdol (CG)
3. Chief Engineer, Public Works Department Bilaspur (CG).
4. Executive Engineer, Public Works Department Champa, Division Champa, District Janjgir Champa (CG).
5. Superintending Engineer, Public Works Department Bilaspur Board Bilaspur (CG).

---- Respondents

Application for review of the order dated 30.10.2015 passed in
WP(S) No.5939 of 2014.

(By Circulation in Chamber)
Order

12/02/2016

1. The matter is considered in chamber under the provisions of Rule 90(2) of the High Court of Chhattisgarh Rules, 2007.
2. The instant review petition has been filed seeking review/modification of the order dated 30.10.2015 passed by this court in Writ Petition (S) No.5939 of 2014.

3. The basic challenge to the writ petition was the non-consideration by the State Govt. for regularizing the services of the petitioner on the basis that he has been working under the State Govt. as daily-wage employee since 1994 onwards.
4. This court while deciding the writ petition had scrutinized the documents which were filed by the petitioner as well as the response filed by the State and on perusal of the record it was found that the employer did not find any document available whereby it could establish that the petitioner was in continuous employment with the State Govt. so as to get benefit as per circular of the State Govt. dated 05.03.2008 regarding regularization.
5. By way of this review petition, the petitioner by filing a document of the year 1994 (Annexure R/2) seeks a review/modification of the order dated 30.10.2015 and wants the order to be recalled and appropriate order may be passed.
6. Having perused the said document (Annexure R/2) also would not meet the reasons for which the State Govt. has rejected the claim of the petitioner for regularization as also the reasons on which the writ petition was dismissed by this court. In any case, from the pleadings itself it is evidently clear that this court while deciding the writ petition has taken into consideration all the pleadings that were made in the writ petition as well as in the counter affidavit of the respondents and has also decided the matter from the documents available before it. Subsequent filing of any new document would not give rise in filing of a review petition so as to recall the order passed on merits and to pass a fresh order after re-hearing the matter.
7. The review petitioner, by way of review application, are trying for re-hearing of the entire matter based on certain documents/circulars/orders etc. which were not produced at the time of hearing of original writ petition itself. It is well settled law that fresh materials and plea cannot be permitted to be raised by way of

review jurisdiction. Moreover, a perusal of order passed in writ petition would reflect that it has been passed with due appreciation and consideration of facts by the State counsel and as such it cannot be said that there was any error apparent on the face of record. Review jurisdiction is not an Appeal in disguise. It does not permit re-hearing of matter on merits.

8. Re-appreciation of the facts of the case on the basis of fresh materials which were not there along with the writ petition and passing of fresh order by exercising the review petition is not permissible under law. It is well settled principles of law that 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 the Code of Civil Procedure. 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. The jurisdiction under review does not permit an erroneous decision to be reheard and corrected. The mistake apparent on record means that the mistake which is self evident, needs no search and satres at its face.
9. Principle of law to entertain review petition is well settled in catena of decisions one of latest being 2012(7)SCC 200 (Haryana State Industrial Development Corporation Limited vs. Mawasi and Others). Similar view has also been taken by the Supreme Court in cases of *Smt. Meera Bhanja vs. Smt. Nirmala Kumari Choudhary*¹, *Lily Thomas, etc. vs. Union of India and others*², *Ajit Kumar Rath vs. State of Orissa and others*³, *Government of T.N. and others vs. M. Ananchu Asari and others*⁴ and *Kerla State Electricity Board vs. Hitech Electrothermics & Hydropower Ltd. and others*⁵.

1 AIR 1995 SC 455

2 AIR 2000 SC 1650

3 AIR 2000 SC 85

4 2005 (2) SCC 332

5 2005 (6) SCC 651

10. Thus, applying the above well settled principles of law to the facts of the present case, there is no ground available for review of the order dated 30.10.2015. Under the garb of the review petition, the petitioner seeks an opportunity to argue the entire case afresh which would amount to converting the review petition into an appeal and the same is not sustainable in law.

11. As a result and in view of the foregoing, this review application is dismissed. No order as to costs.

Sd/-
(P.Sam Koshy)
JUDGE