

**CM-12909-10-CWP-2017 in
RA-CW-427-2017 in
CWP-10843-2013**

Kamlesh Kumar vs. State of Punjab and others

Present: Mr. R.S. Manhas, Advocate
for the applicant-petitioner.

CM-12909-CWP-2017

Allowed as prayed for, subject to all just exceptions.

CM-12910-CWP-2017

There is a delay of 145 days in filing the review application.

Counsel for the applicant-petitioner submits that the applicant-petitioner being a Class IV employee could not arrange for funds in time, due to which delay of 145 has occurred, which was not intentional.

The application is duly supported by affidavit.

For the reasons explained above, the application is allowed and the delay of 145 days in filing the review application is condoned.

RA-CW-427-2017

This application has been preferred under Section 114 read with Order 47 Rule 1 of CPC for review of the judgment dated 09.03.2017 passed in CWP No.10843 of 2013 titled as '*Kamlesh Kumar vs. State of Punjab and others*'.

The writ petition has been filed by the petitioner claiming promotion to Class III post of Signaller. It was contended that the petitioner was working on the post of Signaller and as per Rule 9(1) (b) (ii) of the Punjab Public Works (Irrigation Branch) Signaller State Services Class III

Rules, 1955, if no suitable person is available from amongst the temporary Signallers by promotion, the post to be filled in by promotion from the apprentice Signaller. It was also contended that the petitioner had been deputed as apprentice/trainee Signaller and once he has started working as Class III employee, he should have been considered against two vacant posts.

This court by its judgment dated 09.03.2017 had dismissed the writ petition being devoid of any merit, while holding that the petitioner is junior to respondents No.6 and 7, who had joined service in the year 1996 and 1984 respectively and had gained knowledge and experience of working as trainee Signaller, in addition to their work as Gauge Reader. Whereas, the petitioner had joined services only in the year 2010 and was put to learn the work of trainee Signaller w.e.f. 10.10.2012.

While filing the instant review application, the petitioner contends that the seniority is not the sole criteria for promotion to the post of Signaller as per Rule 9(1) (b) (ii) of the Punjab Public Works (Irrigation Branch) Signaller State Services Class III Rules, 1955. It is argued that as per Rule 9 of the aforesaid Rules, if no suitable person is available from amongst temporary Signallers, then their promotion would be made from temporary Signallers by promotion from amongst the apprentice Signallers and if a person from sub-clause (b) (ii) is not available then only the person already in the service of Government, who desired to be transferred to the service can be considered.

I have heard counsel for the applicant-petitioner and find that

no ground is made out for review in the instant case. A categoric stand had been taken by way of reply by the respondents-State, in which it had been clearly mentioned that the petitioner was appointed as Beldar on 19.10.2010 and while working as Beldar, he submitted an application praying that he had knowledge of working on computer and requested for promotion on a vacant post of Signaller. The Sub Divisional Officer recommended his name for considering him for the post of trainee Signaller against the vacant post of Signaller. On the said recommendation, the Executive Engineer Bathinda Canal Division, by noting dated 08.10.2012 recommended that he be considered for trainee Signaller, in addition to his work of Beldar. He was working on the post of Beldar and drawing the same salary and started illegally marking his attendance as trainee Signaller, even though he was working as a regular Beldar. The vacant posts were filled up by giving promotion to respondents No.6 and 7 being senior to him.

Counsel for the applicant-petitioner has not been able to show what is the infirmity in the order that has been passed. The petitioner choose not to file any replication to the contentions raised in the reply. The scope of the review petition is very limited and review would only be maintainable, in case there is material error manifest on the face of the order, which has not been pointed out. The principles for interference in exercise of review jurisdiction are well settled. The court passing the order is entitled to review the order, if any of the grounds specified in Order 47 Rule 1 are satisfied. By filing the instant review application, the petitioner cannot be permitted to re-agitate the matter on merits. In this regard,

reliance has been placed upon decisions of the Hon'ble Supreme Court in *Sasi (Dead) through legal representatives vs. Aravindakshan Nair and others, (2017) 4 SCC 692* and *S. Bagirathi Ammal vs. Palani Roman Catholic Mission, AIR 2008 SC 719*.

In view of the above, the application for review is hereby dismissed.

September 18, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE