

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.41 of 2015

IN

Civil Writ Jurisdiction Case No. 5148 of 2014

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P.C.Priyadarshi, aged about 63 years S/o Late Manoj Ranjan Prasad, Resident of Daldari Road, Danapur Cantt, PS Danapur, Patna Bihar); presently from the post of District Savings Officer (compulsorily retired) from National Savings/ NSI (Govt. of India), Hqs at Patna (Bihar)

.... Petitioner/s

Versus

1. The Union of India through the Secretary to the G.O.I, M.O.F. (D.E.A), Govt. of India, Ministry of Finance, Department of Economic Affairs, North Block, New Delhi.
2. The Joint Secretary to the Govt. of India Ministry of Finance, Department of Economic Affairs, North Block, New Delhi.
3. Dy. National Savings Commissioner, Nagpur through Regional Director, National Savings (Govt. of India), 234/4, Acharya J.C. Bose Road, Nizam Palace, Kolkatta 700020.
4. Director, National Savings Institute (Govt. of India), 234/4, Acharya J.C. Bose Road, Nizam Palace, Kolkatta 700020.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.C.Priyadarshi (in person)
For the Respondent/s : Mr. Anshuman Singh, CGC

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

C.A.V. JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-03-2018

The applicant appears in person.

Shri Anshuman Singh, learned counsel is representing the respondents.

Seeking review /recall of an order dated 7.1.2015 passed by a Co-ordinate Bench of this Court in CWJC No. 5148 of 2014 this application has been filed by the petitioner. The petitioner was



working in the District Savings Organization and it seems that on account of registration of a criminal case against him under Section 7 read with Section 13(2) of the Prevention of Corruption Act, 1988 he was suspended on 7.3.1995 and thereafter his suspension was revoked on 23.10.1997. The criminal case proceeded and he was convicted in the criminal case by the Special Judge, CBI on 3rd August, 2003. The appeal filed by the petitioner against the conviction is still pending before the appellate court and after his conviction he was again suspended with effect from 11.2.2004 and was ultimately compulsorily retired on 17.10.2006.

The petitioner filed an application before the Central Administrative Tribunal, Patna Bench, Patna under Section 19 of the Administrative Tribunal Act being O.A. No. 582 of 1995 seeking grant of subsistence allowance, annual increment, question of legality of compulsory retirement during suspension claimed benefit of ACP, payment of salary, pay revision etc. The learned Tribunal rejected the prayer and being aggrieved, the applicant filed the writ petition before a Division Bench of this Court as indicated hereinabove as CWJC No. 5148 of 2014 and the Division Bench by the detailed order passed on 7.1.2015 dismissed the writ petition. Complaining that the dismissal has been done in an illegal manner, this review application has been filed for review of the order of the learned Division Bench.



However, while hearing the matter even though we are of the considered view that there is no error apparent on the face of the record but when a complaint was made that full gratuity has not been granted, we directed the respondent-Department to file counter affidavit indicating as to how the pensionary benefits and gratuity have been granted to the applicant.

A counter affidavit has been filed by the respondents indicating as to how the pensionary benefits and gratuity have been granted and they have given various justification for the same.

Now the petitioner is challenging the justification in the manner in which the calculation of pension and gratuity has been done and additional benefit of 6th Pay Commission in calculating the post-retirement benefits. In our view, keeping in view the limited jurisdiction available to us in a review application and considering the law laid down by the Supreme Court in the case of *Sasi (Dead) vs Aravindakshan Nair [(2017) 4 SCC 692]*, wherein scope of review under Order 47 Rule 1 of Civil Procedure Code has been crystalized by the Supreme Court in Paragraphs-6 to 9 which read as under:-

“6. The grounds enumerated therein are specific. 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 the aforesaid provision are satisfied.

7. In *Thungabhadra Industries Ltd. V. State of A.P.* (AIR 1964 SC 1372), the Court while dealing with the scope of review had opined : (AIR p.1377, para



11)

“11. What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an “error apparent on the face of the record”. The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an “error apparent on the face of the record”, for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterized as vitiated by “error apparent”. *A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.*” (emphasis supplied)

8. In *Parsin Devi vs. Sumitri Devi* [(1997) 8 SCC 715], the Court after referring to *Thungabhadra Industries Limited, Meera Bhanja vs. Nirmala Kumari Choudhary* [(1995) 1 SCC 170] and *Aribam Tuleswar Sharma v. Aribam Pishak Sharma* [(1979) 4 SCC 389], held thus: (*Parsion Devi Case*, SCC p. 719, para 9)

“9. Under Order 47 Rule 1 CPC, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. 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 under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be “an appeal in disguise”.

9. The aforesaid authorities clearly spell out the nature, scope and ambit of power to be exercised. The error has to be self-evident and is not to be found out by a process of reasoning. We have adverted to the



aforesaid aspects only to highlight the nature of review proceedings.”

The scope of review being limited and the ingredients specified by the Hon’ble Supreme Court in the aforesaid case, no case for review being maintainable, we are not inclined to interfere into the matter in this review application. However, in case the petitioner feels that the payment of pensionary benefits and gratuity after his retirement have not been calculated appropriately or that the post-retirement benefits have not been given to him in accordance to his entitlement, liberty shall be available to the petitioner before the competent authority of the Government and thereafter to take recourse to such remedy as may be available under law for redressal of his grievance.

With the aforesaid, finding no case for any indulgence into the matter, this application stands disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

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