

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO.74 OF 2018
IN
WRIT PETITION NO. 3226 OF 2005**

**The Union of India & Ors ..Petitioners
Vs.
B. B. Shirsat ..Respondent**

**WITH
CIVIL APPLICATION (L) NO.22017 OF 2017
IN
REVIEW PETITION NO.74 OF 2018
IN
WRIT PETITION NO. 3226 OF 2005**

**The Union of India & Ors ..Applicants
Vs.
B. B. Shirsat ..Respondent**

**Ms Shehnaz (Sheroo) Vispy Bharucha for the Petitioners
Mr. Prabhakar Jadhav for the Respondent**

**CORAM :R. M. SAVANT, &
A. S. GADKARI,JJ
DATE : 28th JUNE, 2018**

(IN CHAMBER AT 2.45 P.M.)

P.C.

1 By the above Review Petition, review is sought of the judgment and order dated 15-2-2017 passed by a Division Bench of this Court to which one of us A. S. Gadkari, J. was a party. The above Review Petition is placed before this Bench as per the extant arrangement.

2 The review is sought on the ground that the allegation against the Petitioner was very serious as regards the defalcation of the amount belonging to the Postmaster. The second ground for review is that the judgments of the Apex Court which have been annexed to the above Review Petition as Exhibit D in the matter of Central Industrial Security Force & Ors Vs. Abrar Ali in Civil Appeal No.2148 of 2015 and the judgment reported in 2015(2) SCC 610 in the matter of Union of India Vs. P. Gunasekaran, could not be cited before the Division Bench when it heard the Review Petition.

3 In so far as the first contention of the Petitioner is concerned the Division Bench has for the reasons stated in the said judgment and order deemed it fit to set aside the dismissal of the Respondent herein whilst doing so the Division Bench has taken into consideration the fact that the Respondent has been acquitted in the criminal case which was filed against him involving the self same allegation. In view thereof we do not find any merit in the said contention of the Petitioner as this Bench is not sitting in Appeal over the Division Bench which had rendered the judgment and order dated 15-2-2017.

4 In so far as the second contention is concerned, the said judgments are revolving around the scope of the High Court under Articles 226 and 227 in interfering with the orders of punishment imposed in

departmental proceedings by re-appreciating evidence or interfering with the conclusions. In our view the proposition laid down by the said judgments is well settled. Since the Division Bench which has rendered the judgment and order of which review is sought deemed it fit to interfere with the punishment imposed upon the Petitioner, which as indicated above is for the reasons stated in the judgment and order under review, we do not find any merit in the second contention also. That apart it was for the Review Petitioner to rely upon such judgments as it was necessary to further its case at the hearing of the above Writ Petition and review cannot be sought on the ground that the judgments could not be cited when the Writ Petition was heard.

5 In our view therefore, no case for review under any of the eventualities mentioned in Order 47 of the CPC is made out. The Review Petition is accordingly dismissed.

6 In view of the dismissal of the above Review Petition, the above Civil Application for stay does not survive and the same to accordingly stand disposed of as such.

[A. S. GADKARI, J]

[R.M.SAVANT, J]