

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CM-18304-CWP-2018 in/and
RA-CWP-393-2018 in
CWP No.15233 of 2009
Decided on : 07.12.2018**

Anoop Singh & others	Versus	... Petitioners
State of Haryana & another		... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Vijay Pal, Advocate, for the applicant/review-petitioners.

G.S.SANDHAWALIA, J. (Oral)

Counsel has sought to raise new arguments in the review application which had never been pleaded or argued when the matter was heard in October, 2017.

The Apex Court in *T.N. Electricity Board and another vs. N. Raju Reddiar and another, 1997 (9) SCC 736* has held that counsels who are not associated with the hearing on an earlier occasion, cannot be permitted to re-argue the matter and review applications are not to be entertained if filed by the counsel who was not the original counsel. The relevant observations read thus:-

“When an appeal/special leave petition is dismissed, except in rare cases where error of law or fact is apparent on the record, no review can be filed; that too by the advocate on record who neither appeared nor was party in the main case. It is salutary to note that Court spends valuable time in deciding a case. Review petition is not, and should not be, an attempt for hearing the matter again on merits. Unfortunately, it has become, in recent time, a practice to file such review petitions as a routine; that too, with change of counsel, without obtaining consent of the advocate on record at earlier stage.

This is not conducive to healthy practice of the Bar which has the responsibility to maintain the salutary practice of profession. In Review Petition No.2670/96 in CA No.1867/92, A Bench of three Judges to which one of us, K. Ramaswamy,J., was a member, has held as under:

"The record of the appeal indicates that Shri Sudarsh Menon was the Advocate-on-record when the appeal was heard and decided on merits. The Review Petition has been filed by Shri Prabir Chowdhury who was neither an arguing counsel when the appeal was heard nor was he present at the time of arguments. It is unknown on what basis he has written the grounds in the Review Petition as if it is rehearing of an appeal against our order. He did not confine to the scope of review. It would be not in the interest of the profession to permit such practice. That part, he has not obtained "No Objection Certificate" from the Advocate-on-Record in the appeal, in spite of the fact that Registry had informed him of the requirement for doing so. Filing of the "No Objection Certificate" would be the basis for him to come on record. Otherwise, the Advocate-on-Record is answerable to the Court. The failure to obtain the "No Objection Certificate" from the erstwhile counsel has disentitled him to file the Review Petition. Even otherwise, the Review Petition has no merits, It is an attempt to reargue the matter on merits. On these grounds, we dismiss the Review Petition".

2. Once the petition for review is dismissed, no application for clarification should be filed, much less with the change of the advocate-on-record. This practice of changing the advocates and filing repeated petitions should be deprecated with heavy hand for purity of administration of law and salutary and healthy practice.

3. The application is dismissed with exemplary costs of Rs.20,000/- as it is an abuse of the process of court in derogation of healthy practice. The amount should be paid to the Supreme Court Legal Aid Services Committee within four months from today. If the amount is not paid, it should be recovered treating this direction as decree of the Court by the Supreme Court Legal Services Committee. The Registry is directed to communicate this order to the Supreme Court Legal Service Committee.

Application dismissed”.

Even otherwise, it is also pertinent to notice that after being unsuccessful before the Division Bench on 21.08.2018 (Annexure A-2), the review application has been filed and an attempt has been made to re-argue the matter, which was heard for over 2 days, i.e., on 09.10.2017 and 11.10.2017 and arguments were addressed by a battery of lawyers. In such circumstances, there is no error apparent on the face of the record in the judgment to bring it within the purview of the review provisions.

The argument that persons who are not qualified and who have been directed to be dismissed from service and whose qualifications have been found not as per the rules, by the Committee, their posts be now filled up, is also without any basis, since the posts stood consumed on the issuance of appointment letters. Resultantly, no ground is made out for entertaining the present review application and the same is hereby dismissed along with the application for condonation of delay in filing the review application.

December 7th, 2018
sailsh

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No