IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.132 of 2019
In
Civil Writ Jurisdiction Case No.12536 of 2016

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1. Union of India through the Secretary (Revenue), Government of India, Ministry of Finance, Department of Revenue, New Delhi
2. The Under Secretary, Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi,
3. The Chairman, Central Board of Direct Taxes, Ministry of Finance, Government of India, New Delhi
4. The Director General of Income Tax, 6, Basant Kunj, Institutional Area, Phase – II, New Delhi
5. The Chief Commissioner of Income Tax (CCA), Central Revenue Building, Patna – 800001, now the Pr. Chief Commissioner of Income Tax (B&J), Patna

... Petitioners

Versus

Arun Kumar 'Manoj', son of Sri Rajeshwar Thakur, resident of Shantiniketan Colony Pharmacy College Road, Rupaspur, district Patna

... Opposite Party

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Appearance :

For the Petitioners	:	Mr. S.D. Sanjay, ASG, with Mr. Kumar Priya Ranjan, CGC
For the Opposite Party	:	Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 15-05-2019 Heard Sri S.D. Sanjay, learned Additional Solicitor General for the review petitioners.

The contention raised on the basis of the fact which has been brought through the review application appeared to be such facts which ought to have been brought before the writ Court, but, the applicants appeared to have chosen not to file rejoinder affidavit as a result whereof such facts were not in the notice of the Court at all when the writ petition was disposed of.

Learned counsel submits that the respondents have already moved a contempt application before the Central Administrative Tribunal and also before this Court for compliance of the judgment, but, the contention is that on account of non-availability of Group 'D' post it is not possible for the applicants to comply with the judgment and it is this fact which has compelled the applicants to file this review application.

The question of entertaining a review application on discovery of new facts does not arise inasmuch as a review is not a re-hearing of the entire matter on disclosure of such facts which otherwise was in the knowledge of the applicant if the vacancies were not existing. It was open to the applicants to bring those facts to the notice of the writ Court which, admittedly, they did not do and are now seeking to press into service through this application. This can not be the scope of review inasmuch as there is no error apparent on the face of record so as to warrant the exercise of review jurisdiction in the present matter. However, in the background of the case, we leave it open to the applicants to take such plea before the contempt Court or before the Tribunal in the contempt proceedings about such facts which may amount to a situation where it may not be possible to exactly comply with the directions, but is is also open to the applicants to proceed to consider the creation of supernumerary posts or otherwise make some adjustment in the event there are no Group 'D' posts in existence and we make these observations because we find from the record that even after the change of rules certain engagements have been made about which facts were brought to the notice of this Court by the respondents in their counter affidavit in paragraphs 12 and 13 filed before the writ Court.

In view what has been stated above, we see no reason to issue notice to the respondent so as to entertain this review application.

This review application accordingly stands disposed of.

(Amreshwar Pratap Sahi, CJ)

(Nilu Agrawal, J)

Shamshad/-

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