

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL REVIEW No.202 of 2019

In

Civil Writ Jurisdiction Case No.5127 of 2019

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1. The State of Bihar through the Chief Secretary cum Chairman, Infrastructure Development Authority, Govt. of Bihar, Patna.
 2. The Managing Director, Infrastructure Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna- 800004.

... .. Respondent/s-Petitioner/s

Versus

1. Ramesh Gupta, Son of Late Rajeshwar Prasad Gupta, Resident of Mohalla-E-99 P.C Colony, P.S,- Kankarbagh, District- Patna working a Senior Administrative Officer, Infrastructure Development Authority, Patna.

... .. Writ Petitioner/s-Opposite Party/s

2. The Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
3. The Regional Director, Central Board of Secondary Education, Shilpa Gram Road (Neem Shankar Devkala Sheta), Panjabari Gauhati (Assam).
4. The Secretary, Central Board of Secondary Education, Shiksha Kendra-2, Communicate Centre, Vihar, New Delhi- 110092.

... .. Respondent/s-Opposite Party 2nd Set

Appearance :

For the Petitioner/s : Mr. Vikash Kumar, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Ghosarvey, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 14-08-2019

The present application for review of the order
dated 01.04.2019, passed in C.W.J.C. No. 5127 of 2019,



has been preferred by the State of Bihar through the Chief Secretary-Cum-Chairman, Infrastructure Development Authority (*in short the I.D.A.*), Govt. of Bihar, Patna as also the Managing Director, I.D.A., Udyog Bhawan, East Gandhi-Maidan, Patna.

2. The purpose of filing the review petition is to remedy the submission made on behalf of the I.D.A. that there is a provision for review which, according to the review applicants, is not existent in the I.D.A. (Financial Service and Technical) Regulations, 2007 (*in short the Regulations of 2007*).

3. It appears that the services of Ramesh Gupta, the original writ petitioner, who was appointed as Finance Officer, I.D.A. had been terminated *vide* order dated 07.09.2018. The appeal against the aforesaid order was also rejected *vide* order dated 07.01.2019. The termination was primarily on the ground of false disclosure by the employee about his caste. He had made a declaration that he belongs to the most backward caste, whereas he hailed from backward caste only.



4. In any view of the matter, on the assertion made by the counsel for the for the I.D.A. that the provision for review, which is there in the Regulations of 2007, has not been exhausted, this Court, by the order which is sought to be revised, permitted the employee/original writ petition to withdraw the writ petition in order to prefer a review petition before the concerned authority within a period of three weeks from the date of passing of the order. It was further directed that if such a review would be filed, the same shall be disposed off within a further period of four weeks thereafter by a reasoned order.

5. As noted above, the present review petition has been filed again on a mistaken notion that the provision of review, which is available in the Regulations of 2007 under Clause 2.5.5, is invested with certain limitations.

6. It would be appropriate and apposite to extract the provision of review under Clause 2.5.5 from the Regulations of 2007, which reads as hereunder:

"2.5.5 Review

The IDA may, on its own motion or otherwise, review any order made by an authority and pass such orders as it deems



fit in the circumstances of the case.

Where an employee who has been dismissed or suspended, is reinstated, the authority reinstating him shall make an order specifying:-

(i) Whether the employee may draw for the period of his absence from duty any pay and allowances in addition to the pay and allowances admissible under regulations.

(ii) Whether such period may be treated as on duty for all or any purposes."

7. The provision is absolutely clear. A revision could be filed on the motion of an employee or by the I.D.A. itself and the order made by an authority could be revised. If the order is revised and the dismissed or the suspended employee is reinstated, then it would be incumbent upon the authority reinstating him to make a clear order, specifying whether the concerned employee would draw, for the period of his absence from duty, any pay and allowances in addition to the pay and allowance admissible under the regulations and whether such period would be treated as on duty for all other practical purposes. Perhaps, the proviso to Clause 2.5.5 of the Regulations of 2007 has been understood by the revisionist/petitioner to mean that the review is only



available in case of reinstatement of a dismissed employee or not otherwise.

8. This interpretation is absolutely faulty and the wordings of the proviso is absolutely clear, admitting of no ambiguity at all.

9. It has by now been settled that the power of review is not inherent in any Statute, but is a specific creation of a Statute/Regulation.

10. In the present case even if the appellate order has been passed by the Chairman, I.D.A., the Chairman, I.D.A. would be empowered to review his order. If there is no ground for reviewing the earlier order, such an order rejecting a review application can be filed. If at all, any anomaly is shown, it would be prudent to revise the order. Only, if a review petition is allowed and the dismissal or suspension of an employee is revoked and in case of dismissal, he is reinstated, then the responsibilities lie on such Officer reinstating him to pass specific orders about salary and whether the employee would be treated on duty during the period of leave/absence from duty/work.



11. These are no limitations on the powers of a reviewing authority and only a clarification that in case a review petition is allowed, what would be the aspects which shall be taken care of by the Officer executing the order in review.

12. For the aforesaid reasons, there is no requirement of this Court to review its order which had rightly relegated the original writ petitioner to the reviewing authority for having the order of dismissal and its affirmation in appeal reviewed.

13. The petition for review, therefore, is dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
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