

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.314 of 2017

In

Civil Writ Jurisdiction Case No.7428 of 2017

Parivartankari Prarmbhik Sikshak Sangh, Bihar Regd, Office at Raksha (South) Via Kant, P.S. Karja, District - Muzaffarpur represented through its State President Sri Banshidhar Brajwashi S/o Sri Nand Kishore Sahani R/o Village Raksha (South), P.S. Karja District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Department of Human Resource Development, Bihar, Patna.
3. The Director, Primary Education, Department of Human Resource Development, Bihar, Patna.
4. The Joint Secretary, Department of Education, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Manoj
For the Respondent/s : Mr.Ashutosh Ranjan Pandey (Aag 15)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA)

5 09-01-2019 Heard both sides.

The petitioner has filed this review petition seeking review of the order and judgement dated 18.05.2017 passed in CWJC No. 7428 of 2017 by which the writ petition has been dismissed.

The learned counsel for the petitioner submits that there was averment in the writ petition that fixing of two years period for grant of grade pay to the petitioner, who is a teacher, is arbitrary and illegal.



In view of the law laid down by the Hon'ble Supreme Court in the case of Sasi (Dead) Through Legal Representatives vs. Arabindakshan Nair And Anr., (2017) 4 SCC 692 in which the principle of law has been laid down in paras 6 to 9 in the following manner, we find no case made out for review. Paragraph Nos.6 to 9 of the judgment reads 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., the Court while dealing with the scope of review had opined:

“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 characterised 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 Parsion Devi v. Sumitri Devi, the Court after referring to Thungabhadra Industries Ltd., Meera Bhanjav. Nirmala Kumari Choudhary and Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, held thus:*

“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.”

In view of the above, the application is rejected.

(Prabhat Kumar Jha, J)

(Sudhir Singh, J)

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