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HIGH COURT OF CHHATTISGARH, BILASPUR**Review Petition No. 90 of 2019**

- Yogesh Kumar, S/o Surajlal, aged about 21 years, R/o Village and Post Puri, Tahsil Charama, District Kanker (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Department of Police D.K.S. Bhawan, Mantrayala, Raipur (C.G.)
2. The Superintendent of Police, District Kanker (C.G.)
3. The Director of Police D.K.S. Bhawan, Mantrayala, Raipur (C.G.)

---- Respondents

For Petitioner	:	Shri Barun Kumar Chakrabarty, Advocate.
For Respondents/State	:	Shri Siddharth Dubey, Deputy Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu, Judge****Order on Board****Per P. R. Ramachandra Menon, Chief Justice****12.07.2019**

1. The review petition has been filed by the Petitioner, who has lost the case in the writ petition and also in the writ appeal, with regard to the appointment to the post of Constable (General Duty) from the OBC category in Kanker District.
2. The grievance of the Petitioner is that the case projected by the Petitioner / Appellant was not properly adjudicated by the Court while deciding the matter contrary to the rights and interest of the Petitioner / Appellant and hence the review.
3. The sequence of events reveals that a notification was issued by the Respondents for inviting application for filling of the post of 11 Constables (General Duty) and a rank list was prepared based on the results in the process

of selection. Admittedly, the Petitioner could find a place only in the waiting list. It is not a matter of dispute that all the 11 vacancies were filled up on the basis of merit and it was never necessitated to go the waiting list and hence the turn of the Petitioner had never come.

4. The above factual position was taken note of by the learned Single Judge, besides the subsequent developments as pointed out from the part of the Respondents, that the rank list had already been exhausted and that all the vacancies had been filled up, necessitating a fresh proposal issuing a fresh notification. It was accordingly that interference was declined and the writ petition dismissed, which made the Petitioner to feel aggrieved, who preferred Writ Appeal No. 487 of 2018 before this Court.
5. When the above matter came up for consideration on 27.08.2018, the factual sequence was taken note of. A submission was made by the learned counsel for the Appellant that there was some interpolation in the marks awarded to him, which tilted the balance with regard to the final result; by virtue of which less meritorious candidates came to be selected and appointed. Referring to the said submission in paragraph No. 4 of the judgment, it was specifically observed by the learned Judges in the next paragraph, that the above submission was not supported by any evidence. The question of consideration for appointment in the post of Constable (General Duty) would have arisen, provided there was any vacancy in the merit list and since all the candidates in the 'main list' had joined, there was no occasion for the Respondents to open the 'wait list'. It was accordingly, that the claim of the Petitioner was turned down and the appeal was dismissed as devoid of merit.
6. In what manner the verdict under challenge suffers from any “error apparent on the face of record” is not pointed out or substantiated. The learned counsel submits that no return / reply was filed by the Respondents with regard to the

actual facts and figures and that persons who had lesser marks have been appointed; insofar as the Petitioner had scored a total of 136 marks, whereas a person who got appointed has scored only 132 marks. This contention is not liable to be entertained by this Court, for more than one reason. Firstly, it is not a matter which makes it an “error apparent on the face of record”, to invoke the power of review. Secondly, if at all the Petitioner has any grievance that any less meritorious candidate had been appointed in preference to him, it was for him to have challenged the said appointment by impleading the person concerned in the party array, which obviously has not been done. Above all, it has been made clear by the Apex Court on many an occasion that the scope of review is very much limited and is not a substitute for appeal. We find support from the case of **Smt. Meera Bhanja vs. Smt. Nirmala Kumari Choudhury** reported in **AIR 1995 SC 455**. The review petition is devoid of merit. It is dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge