

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**REVIEW PETITION NO.1 OF 2018
IN
APPEAL NO.1118 OF 2001
IN
WRIT PETITION NO.806 OF 1997**

N.T.C. Ltd. Western Region	}	Petitioner
versus		
Shri Kamala Singh and Ors.	}	Respondents

Ms.Meena H. Doshi for the Petitioner.

Mr.Ashok D. Shetty for the Respondents.

**CORAM :- S. C. DHARMADHIKARI &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATED :- OCTOBER 11, 2019

P.C. :-

1. This review petition seeks a review of an order passed by the Division Bench presided over by Hon'ble Shri Justice A.S.Oka (as His Lordship then was) and Smt.Anuja Prabhudessai. The judgment and order under review was delivered on 23rd June, 2017 in an appeal from a writ petition. The writ petition was disposed of by the learned Single Judge. That writ petition No.973 of 2005 was disposed of on 26th June, 2011 and National Textiles Corporation S.M. Ltd. filed this subject appeal.

2. The Industrial Tribunal had directed the appellant-N.T.C. (S.M.) Ltd. to refrain from engaging in unfair labour practices under Item Nos.5 and 9 of Schedule IV of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 and further ordered to give benefits of 4th Pay Commission to the original complainants/respondent Nos.1 to 7 to the review petition.

3. The argument before us is that the Division Bench ought to have considered the submissions of the appellant that the reduction of provident fund contributions on account of fixation of the respondents in the Replacement Scales pursuant to an Office Memorandum of the Central Government cannot amount to violate Section 7 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

4. The grounds in the review petition revolve around the interpretation placed on Section 12 by the appellant. The submission is that if this argument of the appellant is accepted, the finding of unfair labour practices could not have been returned at all.

5. Having perused the order under review, we are clear in our mind that this is not an error apparent on the face of the record. If a submission or an argument, as projected before us, has not

been considered or has been considered, but not accepted, surely it is not a ground for review. The limited parameters under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908, which parameters also govern consideration of review of a judgment and order rendered on a writ petition under Article 226 of the Constitution of India, would not enable us to go behind the order under review and deal with the submissions now canvassed. If there is any omission on the part of the Bench in taking note of the same or that it has not been taken note of in the manner suggested before us, at best, that is a ground for appeal against the order under review. A review jurisdiction cannot be equated with that of appeal or revision.

6. In the circumstances the review petition is entirely misconceived and is dismissed.

(SMT.ANUJA PRABHUDESSAI, J.)

(S.C.DHARMADHIKARI, J.)