

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RA No.214 of 2019 in
CWP No.7598 of 2017
DATE OF DECISION:17.07.2019**

Naveen Kumar

...Petitioner

Vs.

Central Administrative Tribunal and others

...Respondents

**CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH
HON'BLE MR.JUSTICE LALIT BATRA**

Present: Mr. Praveen Chander Goyal, Advocate
for applicants/respondents No.2 to 4-Union of India and others.

LALIT BATRA, J.

To begin with, it would be pertinent to mention here that previously CWP No.7598 of 2017 titled “Naveen Kumar Vs. Central Administrative Tribunal, Chandigarh Bench, Chandigarh and others” was filed by petitioner-Naveen Kumar impugning the legality of order dated 23.11.2016 passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh, in OA No.060/00106/2016 titled “Naveen Kumar Vs. Union of India and others”, which writ petition was allowed by this Court, vide judgment dated 14.03.2019 and the concluding paras of said judgment read as under:-

“It goes to show that thumb impressions of applicant-petitioner matched with the application form, OMR sheet and other documents, meaning thereby that applicant-petitioner is same person, who filled up the application form with his own

hand writing, and appeared in said examination and appeared at the time of scrutiny of documents also. Admittedly, the science of hand writing is weak science, whereas science of finger print is perfect science. Therefore, in case, there is choice between opinion of hand writing expert and opinion of finger print expert, opinion of finger print is safe to be relied upon. Since, in this case, thumb impressions of petitioner on application form, OMR sheet and subsequent documents have matched with his specimen thumb impressions, therefore, it is to be held that applicant-petitioner is same person, who appeared in examination.

Consequently, orders of respondents (Annexure-P-6 and Annexure-P-7), rejecting the candidature of applicant-petitioner on the ground of mis-match of hand writing/signatures with various documents, are hereby quashed. Consequently, petition is allowed. Since, it is not disputed that applicant-petitioner was a successful candidate, respondents are directed to complete all formalities for his appointment and consequently issue him appointment letter, as per result declared by them, considering that as a result of comparison of thumb impressions, he is same person, who had applied for Group 'D' post and was successful in same. The said order be complied with within four weeks from the date of receipt of certified copy of this order. Parties are left to bear their own costs."

2. Applicants (respondents No.2 to 4) have filed instant review application for review of judgment dated 14.03.2019, as detailed above, mainly on the ground that since there was a clear stipulation No.5.16 that in case applicant (petitioner) does not fill column No.15 of the application in his own handwriting, it will be rejected. As petitioner-Naveen Kumar did not adhere to above said stipulation, his case is liable to be rejected.

Candidature of petitioner-Naveen Kumar was rejected in view of violation of stipulation No.5.16. Impugned judgment is perverse and contrary to the relevant notified rules for selection. Since this Court while rendering judgment dated 14.03.2019 has acted as appellate authority against the decision of competent authority, instant application for review of said judgment is to be allowed and resultantly CWP No.7598 of 2017, as detailed above, is liable to be dismissed.

3. We have heard learned counsel for applicants (respondents No.2 to 4-Union of India and others) and have carefully gone through the record of the case.

4. Learned counsel for the applicants (Union of India and others) while reiterating the cause of applicants has vehemently argued that this Court while rendering judgment dated 14.03.2019 has wrongly appreciated the matter-in-issue as in terms of stipulation No.5.16, it was incumbent upon the petitioner-Naveen Kumar to fill up column No.15 of the application in his own handwriting and the said stipulation being mandatory, competent authority after having noticed violation of above said stipulation in the application form of petitioner-Naveen Kumar, had rightly rejected his candidature. He further urged that instant application for review deserves to be allowed and consequently, judgment dated 14.03.2019 rendered by this Court be reviewed accordingly.

5. Regarding aspect of controversy as to whether in a given situation, review of judgment is maintainable or not, in case “**Kamlesh Verma Versus Mayawati and others**” 2013(4) RCR (Civil) 75 (Supreme Court), it has been held that in the following grounds, review is

maintainable;

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;
- (ii) Mistake or error apparent on the face of the record;
- (iii) Any other sufficient reason.

Further, in the above said ruling, various situations have been described where review will not be maintainable and the said situations are enumerated as under;

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications;
- (ii) Minor mistakes of inconsequential import;
- (iii) Review proceedings cannot be equated with the original hearing of the case;
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice;
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error;
- (vi) The mere possibility of two views on the subject cannot be a ground for review;
- (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched;
- (viii) The appreciation of evidence on record is fully within the domain of the appellate Court, it cannot be permitted to be advanced in the review petition;
- (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.

6. Further, in case **“Virendra Singh Kothari Versus State of**

Rajasthan” 2004 (2) RCR (Civil) 90 (Rajasthan High Court), it has been held that it is settled legal proposition that scope of review is very limited and under the garb of review a party cannot be permitted to reopen the entire case.

7. In the instant review application, applicants (Union of India and others) have laid emphasis on the aspect that since stipulation No.5.16, in terms of which, applicant is required to fill column No.15 of the application in his own handwriting, is mandatory, any violation thereof amounts to outright rejection of application and once this Court has deviated from intent of said stipulation, impugned judgment dated 14.03.2019 is liable to be reviewed. A bare perusal of impugned judgment dated 14.03.2019 reveals that above said aspect i.e. stipulation No.5.16 was clearly dealt with by the Court. Once Court was of view that candidature of petitioner-Naveen Kumar was rejected solely on the ground that his handwriting/signature on application form, OMR sheet and document verification data mis-matched, and having noticed the object of stipulation No.5.16 that there should be no impersonation at the time of examination, in order to resolve the matter in controversy, specimen thumb impressions of petitioner-Naveen Kumar as well as thumb impressions of applicant on application form, OMR sheet and other documents, were got examined from Finger Print Expert, who after examining said thumb impressions gave the opinion that thumb impressions of applicant (petitioner-Naveen Kumar) on application form, OMR sheet and subsequent documents matched with his specimen thumb impressions, thus, for the said reason it was rightly held by the Court that applicant-petitioner (Naveen Kumar) is the same

person, who appeared in the examination. Court while taking into account object of stipulation No.5.16 that there should be no impersonation at the time of examination, rightly came to the conclusion that applicant-petitioner (Naveen Kumar) was the same person who filled up the application form, OMR sheet and subsequent documents and appeared in examination, thus, claim of petitioner (Naveen Kumar) was rightly allowed.

8. In view of above, since there is no discovery of new and important matter or evidence and the fact that there is no mistake or error apparent on the face of the record, there is no cogent reason to review the judgment dated 14.03.2019. Even otherwise, it is settled legal proposition that scope of review is very limited and under the guise of review, applicants (Union of India and others) cannot be permitted to reopen the entire case.

9. As a sequel to above said findings, instant application moved by applicants (Union of India and others) for review of judgment dated 14.03.2019 passed by this Court in CWP No.7598 of 2017 titled “Naveen Kumar Vs. Central Administrative Tribunal, Chandigarh Bench, Chandigarh and others”, being devoid of merits, is dismissed.

(JASWANT SINGH)
JUDGE

(LALIT BATRA)
JUDGE

17.07.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No