

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**REVP No. 54 of 2020**

1. State Of Chhattisgarh Through The Secretary, Department Of Higher Education, Mahanadi Bhawan, Mantralaya, Atal Nagar, District Raipur Chhattisgarh.
2. The Commissioner Directorate Of Higher Education Raipur Chhattisgarh.

---- Applicants/petitioners**Versus**

1. Dr. Sahab Lal Shrivastava S/o Asrif Lal Shrivastava Aged About 70 Years R/o Shriram Bhawan, Near Airtel Tower, Sector - 3, Deendayal Upadhyay Nagar, Raipur Chhattisgarh.
2. Pt. Ravi Shankar Shukla University Raipur, Through The Registrar, Pt. Ravi Shankar Shukla, University, Raipur Chhattisgarh

----Respondents

For Applicants : Shri Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****18/02/2020**

1. The present review petition has been filed seeking review of the order of this Court on 15.03.2018 passed in WPS No. 661/2011.
2. Vide the said impugned order, this Court had allowed the writ petition and directed the State-authorities to grant pensionary benefits to the petitioner counting the services rendered by the petitioner both under the Rajasthan University as also under the Sambalpur University.
3. The State Government had preferred an appeal against the said order vide the writ appeal No. 447/2019, the writ appeal stood dismissed as withdrawn on 03.10.2019.
4. It would be relevant at this juncture to refer to the order passed by the Division Bench of this Court in the writ appeal, the order is reproduced hereinunder:-

1. When the matter is taken up for consideration, the learned counsel for the State/appellants seeks for permission to withdraw the appeal, without prejudice to the rights and liberties to pursue other appropriate remedies in accordance with law with regard to the vital aspects which are stated as omitted to be considered, while passing the judgment.
 2. Permission is granted.
 3. The appeal is dismissed as withdrawn.
5. Subsequently, the present review petition has been filed and the only ground of challenge in the review petition is that there were certain vital facts and certain documents in respect of these vital facts supporting the pleading of the writ petition which appear to have been omitted by this Court while passing the order dt. 15.03.2018.
6. According to the Counsel for the review-petitioner, the order passed by this Court to the extent that the services rendered by the petitioner under the Rajasthan University be also counted for the purpose of treating him to be in continuous service for pensionary benefits, is not proper, legal and justified, for the reason that there was a break in his service for the period between 04.09.1976 to 03.09.1977. He took leave for a period of one year and as such his services stood continued under the Rajasthan University. He was not duly relieved from the said office so as to grant him the benefit of continuity of service and therefore, the period rendered by the petitioner under the Rajasthan University cannot be considered for the purpose of continuity of service.
7. Counsel for the review-petitioner substantiates his contention on a correspondence made by the Rajasthan University whereby the original petitioner was directed to report back for duty after his leave period was over.

8. What can not be lost sight of is the fact that the present is a review petition where the power of review or jurisdiction or the scope of review by this Court is very limited. It is well settled position of law that a review petition would be entertainable only in the event if there is an error apparent on the face of records or where there is a glaring mistake which has been reflected from the pleadings and the facts narrated by the parties.
9. According to the review-petitioner, the documents in support of his contention so far as the facts that the petitioner's services rendered under the Rajasthan University cannot be counted as continuous service for the purpose of grant of pension is concerned, the documents were already attached to the writ petition and were part of the pleadings but the reference of which is not reflected in the judgment, therefore, it appears to be an omission on the part of this Court, hence the counsel for the review-petitioner seeks for review of the order dt. 15.03.2018.
10. It would be relevant at this juncture to refer to two facts which are reflected in the order of this Court on 15.03.2018 passed in WPS No. 661/2011 i.e. in Para-4 as well as in Para-6. Para-4 is in respect of an order issued on 19.08.2008 by the Government of Chhattisgarh Higher Education Department granting permission in respect of his services rendered under Rajasthan University and Sambalpur University for the purpose of counting length of services for grant of pensionary benefits and gratuity. Similarly, Para-6 is in respect of factual pleadings made by the parties of the Provident Fund of the original petitioner which the petitioner had received from the two Universities and had already been deposited by the

petitioner with the Pt. Ravi Shankar Shukla University way back in the year 2009 itself. Since then, the amount was lying with the University authorities since 2009 onwards.

11. The very fact that this Court had allowed the writ petition taking into consideration the aforementioned facts which stand reflected in Para-4 and Para-6 are concerned. The grounds which the review-petitioner now seeks to raise in the review petition would not be a ground available for the review-petitioner for entertaining the review petition as the same can not be brought within the ambit of an error apparent on the face of records. So far as review part is concerned, it is by now well settled preposition of law that the powers of review would be confining under the provision of Rule 47 CPC 1908.

12. The grounds raised by the review-petitioner in the opinion of this Court does not fall within the purview of an error apparent on the face of record. By way of a review, parties would not be permitted to reagitate the whole issue and convert the review petition into a fresh writ petition and decide the same as if deciding a fresh writ petition itself. Neither can the power of review be exercised in a Review Petition as if the Court was exercising the jurisdiction and powers in a original writ petition itself.

13. Some relevant decisions under the review jurisdiction and the power and scope of interference by a High Court under the review jurisdiction are:- in the case of **Haryana State Industrial Development Corporation Ltd. Vs. Mawasi and Ors.** 2012(7)SCC 200. Similar view has also been taken by the Supreme Court in

cases of **Smt. Meera Bhanja Vs. Smt. Nirmala Kumari Choudhary** AIR 1995 SC 455, **Lily Thomas, etc vs. Union of India and Ors.** AIR 2000 SC 1650, **Ajit Kumar Rath vs. State of Orissa ad Ors.** AIR 2000 SC 85, **Government of T.N. and Ors. vs. M. Ananchu Asari and Ors.** 2005 (2) SCC 332 and **Kerla State Electricity Board vs. Hitech Electrothermics & Hydropower Ltd. and Ors.** 2005 (6) SCC 651.

14. In view of the same, this Court is of the opinion that no strong case has been made out by the review-petitioner for entertaining the review petition, the review petition accordingly stands rejected.

Sd/-

(P. Sam Koshy)
Judge

Jyotijha