

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved on 16.03.2020****Order Delivered on 18.05.2020****Review Petition No.69 of 2020**

(Arising out of judgment dated 14.02.2020 passed in Writ Appeal No.582 of 2019 by the learned Division Bench)

Laxman Lal Sharaf S/o Shri Jeevan Lal Sharaf, Aged About 57 Years, working as Block Education Officer, and posted at Block Education Akaltara, District Janjgir Champa, (C.G.).

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department of School Education, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur, (C.G.)
2. District Education Officer Janjgir Champa, District Janjgir Champa, (C.G.)

---- Respondents

For Petitioner	: Mr. Ajay Shrivastava, Advocate.
For Respondents	: Mr. Chandresh Shrivastava, Deputy Advocate General.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

C A V Order**Per Parth Prateem Sahu, Judge**

1. By this review petition, the Petitioner has sought for review of judgment dated 14.02.2020 passed in Writ Appeal No.582 of 2019 wherein the writ appeal preferred by him was dismissed.

2. Mr. Ajay Shrivastava, learned counsel for the Petitioner submits that the Respondent-State has placed on record incorrect fact that the Petitioner was on medical leave at some point of time while working as Block Education Officer, which is one of the grounds for dismissal of writ appeal. He further points out that in the impugned judgment, it was not considered that the initial transfer order issued by the Respondent-Authorities was without any administrative exigency because the place in which the Petitioner was transferred, there was no vacant post available of Lecturer (History) i.e. Government High School, Saplawar, Block Pali, District Korba. It is also contended that the Petitioner has been temporarily transferred and is not permanently posted by way of modified transfer order dated 15.01.2020 (Annexure R/1). On the aforementioned grounds, learned counsel for the Petitioner submits that the impugned judgment be reviewed and transfer order dated 22.08.2019 be set aside.
3. Per contra, Mr. Chandresh Shrivastava, learned Deputy Advocate General representing the State/Respondents submits that all the grounds as raised by the Petitioner in this review petition have already been argued in the writ appeal and the grounds raised in the review petition cannot be considered as a valid ground for reviewing the impugned judgment. He also submits that review can only be permitted in very exceptional cases where 'there is error apparent on face of record', in order/judgment which is sought to be reviewed.

4. We have heard learned counsel appearing for the respective parties.
5. This Court while dismissing the writ appeal, in which, order of transfer of place of posting was under challenge, took note of the issuance of modified transfer order on 15.01.2020 whereby the Petitioner was posted to a place nearby the railway station. In the impugned order, we have also opined that the grievance of the Petitioner was redressed.
6. From perusal of the grounds raised by learned counsel for the Petitioner, it appears that the Petitioner wants re-hearing of his case, which is not permitted in law.
7. The Hon'ble Supreme Court in the matter of **Rajinder Singh v. State of Haryana and Others** reported in **(2005) 12 SCC 322** has held thus :

“2. We have carefully perused the grounds urged in the review petitions. We find that all the pleas are in substance a reiteration of the grounds that were urged during the hearing of the appeals and, therefore, cannot be the grounds for entertaining a review petition. The petitioner cannot be permitted to seek a rehearing in the garb of a review petition. The review petitions are devoid of any merit and are dismissed.”

8. The jurisdiction of this Court for entertaining the review petition/application is very limited and unless and until, it is pointed out that “there is error apparent on the face of the record” in the order

sought to be reviewed, the review petition/application cannot be allowed.

9. The Hon'ble Supreme Court in the matter of **Smt. Meera Bhanja v. Smt. Nirmala Kumari Choudhury** reported in **AIR 1995 SC 455** has held thus :

“8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, C.P.C. In connection with the limitation of the powers of the Court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*, AIR 1979 SC 1047, speaking through Chinnappa Reddy, J., has made the following pertinent observations (para 3):

“It is true there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the

province of a Court of Appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court.....”

10. The Hon'ble Supreme Court has held that the review petition is not to be entertained even if it is found that the decision under challenge in review petition was found to be erroneous on merits. We do not find any error apparent on the face of the record in the impugned judgment.
11. In view of above discussions and the law laid down by Hon'ble Supreme Court in the aforementioned cases, the review petition being sans merit is hereby dismissed.

Sd/-

(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE