

NAFR

HIGH COURT OF CHHATTISGARH BILASPUR**Review Petition No. 189 of 2020**

Mrs. Vanshika Rohit Dalmia W/o Shri Rohit Dalmia, aged about 38 years, R/o C/o Mahesh Brothers, Shastri Chowk Akaltara, District Janjgir-Champa, Chhattisgarh.

---- Petitioner**Versus**

1. The State of Chhattisgarh, through the Secretary, Ministry of Home Affairs (Police Department), Mantralaya, D.K.S. Bhawan, Chhattisgarh.
2. The Director General of Police, Chhattisgarh, Police Headquarters, Raipur, Chhattisgarh.
3. The Director, Directorate of Health Services, Chhattisgarh, Raipur, Chhattisgarh.
4. The Sports Officer, Government Arts and Science College, Bilaspur, Chhattisgarh.
5. Tahsildar, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.
6. Suresh Kumar Choubey, S/o Shri Ayodhya Nath Choubey, resident of 46/13 Rajasva Colony, Sarkanda, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.
7. The Chairman, Chhattisgarh Public Service Commission, Raipur, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Rajendra Mishra, Shri Rohit Dalmia and Shri Neeraj Choubey, Advocates
For Respondent/State	: Shri Ashish Tiwari, Government Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Parth Prateem Sahu, Judge****13.01.2021**

1. This review petition is filed against the judgement dated 05.02.2020 whereby this Court has disposed off two appeals bearing Writ Appeal

Nos.384 of 2018 and 694 of 2018. Challenge in this review petition is to the facts and findings recorded with regard to Writ Appeal No.694 of 2018.

2. Initial facts of the case are that, respondent No.7 i.e. Chhattisgarh Public Service Commission (hereinafter referred to as 'CGPSC') issued an advertisement on 24.05.2006 inviting applications from eligible candidates for appointment to various posts in the State Civil Services, including 44 posts of Deputy Superintendent of Police (hereinafter referred to as 'DSP'), which is relevant in the facts of the case. After completion of selection process review petitioner- Mrs. Vanshika Rohit Dalmia has filed Writ Petition (S) No.6980 of 2007 initially challenging the appointment of Suresh Kumar Choubey. She filed an application for amendment of writ petition seeking her appointment from waiting list only on 03.03.2017. The said application was allowed by learned Single Judge on 25.04.2017. The writ petition filed by review petitioner came to be allowed vide order dated 07.02.2018. Relevant portion of the order is extracted below :

“23. Subject to petitioner fulfilling required medical and fitness standards prescribed for appointment to the post of DSP, the petitioner shall be offered appointment against one available vacancy of DSP in the State Police Service”

3. The order passed by learned Single Judge was put to challenge in

writ appeal by respondent No.1/State Government precisely on the ground that learned Single Judge taken note of letter dated 15.11.2016 (Annexure P/15) showing that on one vacant post of DSP no appointment order was issued to any candidate in supplementary list, but has not taken into consideration as to whether on the date of passing of order dated 07.02.2018, any post of DSP advertised in the year 2005 was vacant or not. The vacant post was filled up in pursuance to order passed by Hon'ble Supreme Court in Civil Appeal No.274 of 2016 whereby Richa Mishra was appointed vide order dated 22.03.2016.

4. Respondent No.1 therein/review petitioner has placed on record the order passed by Division Bench of this Court as well as order passed by Hon'ble Supreme Court in Civil Appeal No.274 of 2016. Upon hearing the writ appeal and taking into consideration the submissions made by learned counsel for the parties in writ appeal, this Court considered the entire facts and circumstances of the case as well as the fact that Richa Mishra one of the candidates who participated in the appointment and selection proceedings in pursuance to advertisement dated 24.05.2006 (which is subject matter of dispute) has been ordered to be appointed on one vacant post by Hon'ble Supreme Court. On the date of passing of order in writ petition of review petitioner, there was no vacant post available for appointment of petitioner from waiting list. This Court has also considered that there was no claim of the review petitioner that she was a meritorious

candidate than that of Richa Mishra.

5. Shri Rajendra Mishra, learned counsel for the review petitioner submits that no interim order was passed in favour of Richa Mishra after 10.03.2010, hence, no post can be kept vacant till 2016 i.e. the date when Hon'ble Supreme Court passed an order in her favour on 08.02.2016. One another candidate Mr. Sukhnandan Rathore was appointed in the year 2010 which was way beyond the expiry of the waiting list. The Hon'ble Supreme Court while deciding the SLP in favour of Richa Mishra vide order dated 08.02.2016 does not speak about filling up the vacant post of DSP nor respondent No.1 herein had made any submission. The case of Richa Mishra was totally different and that is on technical aspects of the Rules. Review petitioner/appellant could have been appointed as DSP if respondent No.1 would have issued appointment order to unreserved category from March 2010 till December 2015. The issue with regard to appointment of Richa Mishra was raised by respondent No.1/State in their appeal was not part of proceedings before learned Single Judge, hence, the said ground raised by respondent No.1 ought not to have been considered. It is on these grounds, impugned judgement is sought to be reviewed.
6. Shri Ashish Tiwari, learned Government Advocate representing the State submits that appointment of Richa Mishra is following from the same advertisement which was subject matter of the writ petition and

for the same post and Hon'ble Supreme Court has issued a very specific direction for giving appointment to appellant therein i.e. Richa Mishra with effect from the date her juniors in the merit list, namely, Tarkeshwar Patel and Ranu Sahu are appointed and accordingly, seniority and pay shall be fixed. In pursuance to order passed by Hon'ble Supreme Court, Richa Mishra was appointed on 22.03.2016, as such, on the date of passing of order in the writ petition filed by review petitioner, there was no vacant post available in pursuance to advertisement dated 24.05.2006.

7. We have heard the learned counsel for the parties and perused the record carefully.
8. The jurisdiction of entertaining review petitions are very limited and only to the extent of error apparent on the face of record as held by Hon'ble Supreme Court in case of **Meera Bhanja (Smt.) v. Nirmala Kumari Choudhury (Smt.)** reported in **(1995) 1 SCC 170**. Error apparent on face of record means, such error for which entire record is not required to be looked into. Review petition cannot be a re-hearing of original proceedings by appreciating each and every fact and the law, which is a jurisdiction of an Appellate Court.
9. Each and every factual or legal error cannot be made subject matter of review by examining the entire facts and circumstances of the case *denovo*, we find support from the ruling of Hon'ble Supreme Court in case of **Asharfi Devi (Dead) through Legal**

Representatives v. State of Uttar Pradesh and Others reported in
(2019) 5 SCC 86.

- 10.** In the result, we do not find any error apparent on the face of the record for review of the impugned judgment. The review petition is sans merit, is liable to be and is hereby dismissed.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Yogesh