

1 30.6.2022

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION**

**RVW 41 of 2019
In
FMA 523 of 2017
With
CAN 1 of 2019(Old No. CAN 2569 of 2019)**

**Nibir Chand Karan
Vs.
Paschim Banga Gramin Bank & Ors.**

**Mr. Arunava Ghosh
Mr. Mainak Ganguly For the Applicant/petitioner.**

**Mr. Baidurya Ghosal
Mr. Avipsha Dutta Roy ... For the Respondents.**

Re: CAN 1 of 2019(Old No. CAN 2569 of 2019)

This is an application for review of our judgement and order dated 5th December, 2018 in the appeal (FMA 523 of 2017: Nibir Chand Karan Vs. The Paschim Banga Gramin Bank & Ors).

S.D. Mr. Arunava Ghosh, learned counsel appearing for the applicant invokes the constitutional principle that no person can be charged with an offence, which was not so at the time it was allegedly committed. He says that the alleged acts of the applicant for which the disciplinary proceedings were started against him related to the period from 2nd November, 2002 to 4th July, 2006. He was charged under the 2007 Regulations, which were obviously not in force then. He cites paragraph 4 of Ashok Kumar Pattanaik And Others. Vs. State of Orissa And Another, reported in (1998) 6 Supreme Court Cases 176,

which opined that certain relevant Rules were not pointed out to the court in that matter. They had **‘a bearing on the result of the matter’**. On this ground the review application was allowed.

Learned counsel submits that on the ratio of the decision we should entertain and allow this review application on the ground that the 2007 Regulations and those prior to that were not considered by the court in pronouncing its judgement and order dated 5th December, 2018.

The grounds of review as enshrined in Order 47, Rule 1 of the Civil Procedure Code are very limited. An order may be reviewed, if there is an error apparent on the face of it or on the discovery of materials, which inspite of due diligence could not be produced before the court and similar circumstances.

In this case there is a difference between the facts of the above Supreme Court case and the present one. In that case the rules were not cited before the court at all. In this case a specific argument was made that the alleged acts related to November, 2002 to July, 2006 when the 2007 Regulations were not in force. It was responded to by learned counsel for the bank by submitting that the 2007 Regulations endorsed the earlier Regulations. On those submissions, this court came to a specific finding that even under the earlier Regulations

the charge or charges as had been framed against the applicant were maintainable.

If the applicant is aggrieved by this finding of the court, the remedy lies elsewhere than in review. Normally, a finding of the court is final. The court cannot be invited to revisit matters over and over again unless a specific error under Order 47, Rule 1 of the Code has been made.

For this reason we dismiss this review application.

The application CAN 1 of 2019(Old CAN No. 2569 of 2019) is also dismissed.

(I.P. Mukerji, J.)

(Amrita Sinha, J.)

