

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.51 of 2020

In
Letters Patent Appeal No.1257 of 2016

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Dinesh Pandey, Son of Late Madan Pandey, resident of village Mahmadpur,
P.S. Manjhi, District- Saran (Chhapra).

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary cum Commissioner, Home Department, Secretariate, Patna.
2. District Magistrate, Saran at Chhapra.
3. The Sub-Divisional Officer, Saran at Chhapra.
4. The Circle Officer, Manzhi Block Manjhi, District Saran (Chhapra).
5. Officer Incharge, Manjhi Police Station, Manzhi, Saran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr. Prabhat Kumar Verma, AAG 3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

- 3 03-11-2023 1. No one appears on behalf of the petitioner. Learned counsel for the respondents is present.
2. The petitioner has filed the instant application praying for review of the order dated 22.10.2019 passed in L.P.A. No.1257 of 2016. In addition, the petitioner has also filed an application for condoning the delay in filing of the review application.
3. The petitioner filed the writ application (CWJC no.12666 of 2008) praying for directing the respondents to



restore the service of the petitioner on the post of Choukidar at Police Station Manzhi in the District of Saran as the petitioner had been illegally discharged without any issuance of show cause or any departmental proceeding. The writ application was dismissed by order dated 22.1.2016 on the ground of laches and delay as the discharge had been challenged by the petitioner after a lapse of 18 years. It is against this order that the petitioner preferred LPA no.1257 of 2016 which was dismissed by order dated 22.10.2019 on the ground that the termination had been challenged by the petitioner after a lapse of 18 years.

4. No one appeared on behalf of the petitioner on the matter being called out. However, from the contents of the petition, it is the case of the petitioner in the review application that he was illegally removed while working as '*Awaji Choukidar*' without any issuance of show cause or without following any rules laid down under the Bihar Service Code.

5. It may be stated here that Order XLVII Rule 1 of the Code of Civil Procedure deals with the review of judgment. The Hon'ble Supreme Court in **Parsion Devi vs. Sumitri Devi [(1997) 8 SCC 715]** has held that review proceedings have to be strictly confined to the ambit and scope of Order XLVII Rule 1 of the Code of Civil Procedure and the ground for review can



only be an error apparent on the face of the record. Further in the case of **Col. Avtar Singh Sekhon vs. Union of India (1980 Suppl. SCC 562)** the Hon'ble Supreme Court held that one cannot review their earlier order unless one is satisfied that material error manifest on the face of the order undermines its soundness or results in miscarriage of justice. Further in the case of **Lily Thomas vs. Union of India [(2000) 6 SCC 224]** the Hon'ble Supreme Court held that in exercise of power of review, the Court may correct the mistake but not substitute its view. The possibility of two views on the subject is not a ground for review.

6. It further transpires that an interlocutory application (I.A. No.1 of 2022) has been filed by the petitioner for condoning the delay of 88 days in filing the review application. As per the calculation, the limitation having expired on 30.11.2019, the delay is of a total of 3 months 16 days. A bald statement without any supporting documents has been made in paragraph no.3 of the application to the effect that the delay is due to illness of the petitioner and so it may be ignored.

7. In the opinion of the Court, the petitioner has not made out a case for condonation of delay.

8. In view of the facts and circumstances of the case,



the petitioner not having made out a case for condonation of delay in filing of the review application nor a case on merits for review of the order dated 22.10.2019 passed in LPA No.1257 of 2016, the review application is dismissed both on merits and on there being no satisfactory grounds for delay condonation.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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