

3-4 **26.07.**
2023

Ct. No. 04

Ab

CPAN 534 of 2023
(Rajeev Singh vs. Archana Joshi and others)
with
RVW 72 of 2023
(Union of India and others vs. Rajeev Singh)
IA No. CAN 1 of 2023
In
WP.CT 19 of 2023
(Rajeev Singh vs. Union of India and others)

Mr. Rajeev Singh.
... the petitioner/applicant (in person).

Mr. Sovan Mukherjee.
... for the respondents/alleged contemnors.

Re: RVW 72 of 2023

This is an application for review of the judgment and order dated 15th March 2023 by which an interim order was passed restraining the respondents therein from taking any coercive steps against the writ petitioner and also not to give effect to or act in furtherance of the impugned order of transfer. A further direction was passed that the writ petitioner may be permitted to join the post, which he held at the stage of pre-transfer order and shall also release all the admissible salaries and benefits attributable to the said post without prejudice to their respective rights and contentions.

The review is intended not against the order staying operation of the order of transfer or a consequential order relating to the release of all admissible salaries and benefits attributable to the said post but on the ground that the post, which the writ petitioner held, has already been filled up and there is no other post where the writ petitioner can be put in.

The aforesaid contention is disputed by the writ petitioner and says that the moment the order of transfer is stayed, the said post is still in existence and, therefore, there is no impediment on the part of the respondents in complying with the said direction.

We are conscious of the power exercised by the Court under review jurisdiction. There is no case made out that the said order contains an error apparent on the face of the record nor on a discovery of new and important documents, which despite due diligence was not within the knowledge of the applicant or for some other reasons. The review is intended on new facts, which, in our opinion, is beyond the scope of Order XLVII Rule 1 of the Code. The compliance of a direction of the order is within the domain of the authorities and review application is not entertainable as certain inconvenience is caused or perceived by the said authorities in implementation of the said order.

We do find that the ground enumerated therein is inflexible and cannot be made flexible. It is within the command of the authorities to take a decision if they have an intention to implement the order and cannot seek a review on a ground not envisaged under Order XLVII Rule 1 of the Code.

Hence, the application for review and the connected application being CAN 1 of 2023 are dismissed.

So far as the contempt application is concerned, it is submitted by the Counsel for the alleged contemnors that the affidavit-in-opposition has already been engrossed and, in fact, the deponent signed the same, but because of the technical difficulties the same is not affirmed and, therefore, prays for extension of time to file the same.

In view of the above, time to file affidavit-in-opposition to the contempt application is extended by two weeks from date; reply thereto, if any, shall be filed within three days thereafter and the contempt application is made returnable after three weeks.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

