

**RA-CW-79-2023 and
CM-4979-CWP-2023 in
CWP-2510 of 2017**

MANOJ KUMAR
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CM-4979-CWP-2023 in
RA-CW-79-2023 and
CWP-2510 of 2017
Date of decision : 29.08.2023**

Sandeep Singh and Ors.

....Petitioners

Versus

State of Haryana and Ors.

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Puneet Bali, Sr. Advocate with
Mr. Ishan Bhardwaj, Advocate and
Mr. Uday Agnihotri, Advocate for the applicant-respondents.

Mr. Pankaj Middha, Addl.AG, Haryana.

Mr. Rajesh Hooda, Advocate for non-applicants/petitioners.

HARSIMRAN SINGH SETHI, J. (ORAL)

CM-4979-CWP-2023

Application is allowed, as prayed for.

Annexures A.1 to A.5 are taken on record.

RA-CW-79-2023

Present application has been filed for reviewing order dated 07.11.2022 passed by this Court vide which the writ petitions filed by the petitioners were allowed.

Learned Senior counsel appearing for the applicant-respondents submits that while passing the said order, the Minutes of Meeting dated 30.11.2016 of the Maharishi Dayanand University, Rohtak, copy of which had already been brought on record, which view was again reiterated by the Maharishi Dayanand University, Rohtak vide letter dated 06.01.2017, were not

discussed. Learned Senior counsel argues that as per said resolution dated 30.11.2016, the University was of the opinion that the relevance/equivalency as being claimed by the candidates of the qualification being held by them in the subject of Genetics with that of Zoology is perfectly valid,

Learned Senior counsel appearing on behalf of the review applicant/respondents has not argued that the said argument was raised at the time of hearing by the counsel representing applicant/respondent but still same has not been discussed while passing the order dated 07.11.2022 review of which is sought. That being so raising a finger toward the court should have been avoided.

Be that as it may, submission of learned counsel for the applicant/respondent are considered now. Learned Senior counsel argues that the said decision dated 30.11.2016 of the Maharishi Dayanand University, Rohtak changes the scenario qua the claim of the review applicants so as to claim the relevancy of the qualification held by them in the subject of Genetics so as to compete for the post in the subject of Zoology/Botany as the said resolution is of the experts.

It is apparent that while passing the order under review, this Court had already held that the State i.e the employer, had already taken a decision on 23.11.2016 keeping in view the opinion given by the subject experts of various Universities including Maharishi Dayanand University, Rohtak, Kurukshetra University, Kurukshetra, Chaudhary Devi Lal University, Sirsa that the qualification being held by the candidates in the subject of Genetics is not equivalent/relevant in the subject of Zoology/Botany, which was conveyed to the Commission.

On being asked as to under what circumstances, the said meeting dated 30.11.2016 was held by the M.D.U University, learned Senior counsel very fairly concedes that the said meeting was held in pursuance to the representation made by the candidates i.e the review applicants and not on the asking of the respondents-State i.e the employer or by the Commission. Once any meeting has been held by the Maharishi Dayanand University, Rohtak under the chairmanship of its own members and that too on the asking of the interested parties, any decision taken, no benefit of the same can be given especially when the subject experts of the same University had opposed that the relevancy being claimed by the review applicant had already been dealt which decision of the M.D.U had been accepted by the State and was conveyed to the Commission as well.

Further, it is a conceded fact that no direction was given by the Commission or the employer i.e State to M.D.U to constitute another Committee so as to make further recommendations on the issue, especially when the subject expert of M.D.U had already given their opinion to the Government that the relief of equivalency being claimed by the candidates having qualifications in the Genetics qua the subject of Zoology/Botany is incorrect, which decision of the MDU along with recommendations of various other Universities had already been accepted by the employer i.e the State and conveyed the same to the Commission on 23.11.2016. Once the issue had already been resolved by the subject experts of Maharishi Dayanand University, Rohtak, wherein a view has already been expressed by the subject experts that the qualification held by the candidates in the subject of Genetics is not relevant/equivalent to the qualification of Zoology/Botany, which view had already been accepted by the Government and conveyed to the Commission on 23.11.2016, no benefit of the Meeting held by the Maharishi Dayanand University, Rohtak on 30.11.2016,

which meeting was convened by the University on its own and that too on the representation of interested parties can be treated as relevant so as to change the findings recorded in the judgment of this Court dated 07.11.2022.

It is further to be borne in mind that the decision of the University dated 30.11.2016 which is being relied upon by the review applicant as an opinion of subject experts is not a unanimous decision of the University but has been passed on the basis of majority wherein also the subject experts in the subject of Zoology and Botany who participated in the said meeting have declined to go with the view that the qualification in the subject of Genetics is relevant/equivalent to that of Zoology/Botany. Once the view of the subject experts still remains that there is no relevance of the qualification in Genetics with Zoology/Botany, passing a resolution on the basis of majority decision and majority decision is not of experts in the subject concerned but is of the officials of the M.D.U, no benefit of the same can be given in favour of the review applicants so as to review the findings recorded in order dated 07.11.2022.

It would be further worthwhile to note that other members of the Meeting dated 30.11.2016 are academicians only but not expert in the subject of Genetics or the Zoology/Botany so as to hold higher opinion than that of experts on the subjects concerned in the subject of Zoology and Botany, hence even on this account no benefit of the said meeting of the M.D.U dated 30.11.2016 can be given to the review applicants so as to change the decision as expressed in the judgment dated 07.11.2022 .

Even otherwise, as per the settled principle of law, the scope of review is rather very limited as only the error apparent on the face of record or discovery of a new evidence comes under its ambit and the review application lies if an error apparent on record is discovered upon the arguments and

interpretation of facts. Reference is made to Judgment of Hon'ble Supreme Court passed in **Civil Appeal No.5503-04 titled as S. Madhusudhan Reddy vs. Narayana Reddy & Others, decided on 18.08.2022.** Relevant para of the same is reproduced as under:-

“As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review, is not the same as that of an appeal judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order XLVII Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction Yet another circumstance referred to in Order XLVII Rule 1 for reviewing a judgment has been described as "for any other sufficient reason". The said phrase has been

**RA-CW-79-2023 and
CM-4979-CWP-2023 in
CWP-2510 of 2017**

#6#

explained to mean "a reason sufficient on grounds, at least analogous to those specified in the rule" (Refer: Chajju Ram v. Neki Ram¹⁷ and Moran Mar Basselios Catholicos and Anr. v. Most Rev. Mar Poulouse Athanasius and Others¹⁸).

Finding no merit in the present review application, the same is dismissed.

August 29, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable : No