

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RA-CW-No.66 of 2022 in
CWP-20821-2021**

Date of decision : February 24, 2023

Anmol Singh Nayar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE PANKAJ JAIN**

Present :-Mr. Manohar Lal, Advocate
for the applicant-petitioner.

Mr. Pravindra S. Chauhan, Senior Addl.
A.G., Haryana.

Mr. Vikas Chatrath, Advocate
for respondent Nos. 2 to 4.

Mr. R. Kartikeya, Advocate
for respondent No.6.

None for respondent Nos. 5 and 11.

PANKAJ JAIN, J.
CM-16765-2022 in RA-66-2022

This is an application filed under Section 151 CPC for placing on
record replication on behalf of the petitioner to the reply filed by the
respondent No.2.

Replication is taken on record.

RA-CW-No.66 of 2022

By way of present application filed under Section 114 read with Order 47 Rule 1 CPC the applicant-petitioner prays for review of the judgment dated 22.2.2022 whereby the writ petition filed by the petitioner was ordered to be dismissed. The petitioner claims that the provisions of Order 2 Rule 2 CPC were wrongly invoked to dismiss the writ petition filed by the petitioner.

Brief facts that need to be culled out for the adjudication of the present application are that the petitioner is aggrieved of the result whereby he was not found suitable for promotion/appointment to the post of Additional District and Sessions Judge. It is not disputed that the petitioner earlier filed writ petition claiming the same relief by way of CWP No.24282 of 2017. The same was dismissed by this Court vide judgment dated 14.08.2018. The review application No. RA-CW-255 of 2018 was also dismissed vide order dated 3.10.2018. Special Leave Petition preferred by the petitioner against the said judgment also stands dismissed in limine. Present writ petition was filed seeking same relief claiming that the plea regarding assessment of judgments having been invalidly undertaken by respondent No.3 at its own level against the decision of Full Court authorizing six Member Committee of Hon'ble Judges could not be taken up by the petitioner as he came to know about the

same only on 12.11.2018 after he received information under the provisions of RTI Act, 2005. This Court while dismissing the writ petition vide order dated 22.02.2022 on merits found that the plea of the petitioner about the validity, assessment and reliance upon the information received under RTI Act, 2005 was completely misplaced and the writ petition was barred by the principles of constructive res judicata.

In reply filed in the present application, the plea raised by the petitioner on merits has been denied and it has been claimed that the judgments of the petitioner were assessed by the administrative committee constituted of six Senior most Judges excluding the Chief Justice. However, a preliminary objection has been raised with respect to the maintainability of the application claiming that in the disguise of the review the petitioner is trying to claim re-hearing of the writ petition itself.

We have heard learned counsel for the parties and have gone through the record of the case.

The law with respect to exercise of jurisdiction of review is well settled. The Apex Court in the case of **Sivakami and others Vs. State of Tamil Nadu and others 2018 (4) SCC 587** held as under :-

“20.The scope of the appellate powers and the review powers are well defined. The power of review under Order 47, Rule 1 of the Code of Civil Procedure, 1908 is very limited and it may be

exercised only if there is a mistake or an error apparent on the face of the record. The power of review is not to be confused with the appellate power. The review petition/application cannot be decided like a regular intra court appeal. On the other hand, the scope of appeal is much wider wherein all the issues raised by the parties are open for examination by the Appellate Court

21. A fortiori, what was not decided in appeal by the Division Bench could not be decided by the Division Bench while deciding the review application. It is for this reason, we are also constrained to set aside the review order.”

The same is ratio of law laid down in the case of **Sasi (D) through L.Rs Vs. Aravindakshan Nair and others 2017 AIR (SC) 1432**. In Civil Appeal No. 1171 of 2023 decided on 15.02.2023 in **Pancham Lal Pandey Vs. Neeraj Kumar Misra and others** Apex Court held as under:-

“15. The provision of review is not to scrutinize the correctness of the decision rendered rather to correct the error, if any, which is visible on the face of the order/record without going into as to whether there is a possibility of another opinion different from the one expressed.”

In the present case counsel for the applicant has not been able to point out any error on the face of record. His plea is that order under review is illegal.

In view of the aforesaid settled law, this Court finds that under the garb of the present review application the petitioner seeks re-hearing of the writ petition

which is beyond the scope of review.

Resultantly, the same is ordered to be dismissed.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

**(PANKAJ JAIN)
JUDGE**

**February 24, 2023
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