

**(1)CM-3641-CWP-2023;
CM-3643-CWP-2023;
CM-3645-CWP-2023 in
RA-CW-56-2023 in
CWP-13842-2015**

**Shivani
vs.
State of Haryana and others**

**(2) CM-4574-CWP-2023;
CM-4575-CWP-2023;
CM-4578-CWP-2023 in
RA-CW-73-2023 in
CWP-15136-2015**

**Darshna Rani
vs.
State of Haryana and others**

**(3) CM-4568-CWP-2023;
CM-4577-CWP-2023;
CM-4579-CWP-2023 in
RA-CW-74-2023 in
CWP-9790-2016**

**Vedpati and others
vs.
State of Haryana and others**

Present:- Mr. Sandeep Singh Mann, Addl. A.G. Haryana with
Ms. Vibha Tewari, AAG, Haryana for the applicant-State.

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CM-3643-4575-4577-CWP-2023

Application are allowed as prayed for.

**CM-3641-4574-4568-CWP-2023 in
RA-CW-56-73-74-2023**

The present applications have been filed for condonation of delay of 113 days in filing the respective review petitions.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Delay of delay of 113 days in filing the respective review petitions is condoned.

RA-CW-56-73-74-2023

By this common order, above mentioned three review applications are being disposed of as all these review applications are arising out of the same judgment dated 19.09.2022 passed by this Court.

Learned counsel for the applicant-State submits that only undertaking given before the Hon'ble Supreme Court of India was to consider the claim of 258 employees for their adjustment in case they are having the required qualification for appointment hence, the said undertaking was complied with keeping in view the regularization policy issued in the year 2014, which fact has not been appreciated in correct prospective.

Second argument of the learned counsel for the applicant-State is that the petitioners have not fulfilled the conditions of regularization policy hence, they were not entitled for the benefit of regularization of their services, which argument has not been accepted while passing the judgment dated 19.09.2022.

It is a settled principle of law that review is only maintainable in case any fact has wrongly been taken into consideration while passing the order sought to be reviewed so as to record a finding.

On being asked as to point out any incorrect fact in the judgment in question, which has led to incorrect finding, learned counsel for the applicant-State has not been able to point out even a single incorrect fact rather learned counsel for the applicant-State submits that though, the arguments have been taken into consideration, which are now sought to be raised in review petition while passing the initial order dated 19.09.2022 but as the view taken by this Court, in the opinion of the department is not

correct hence, the said opinion of this Court is liable to be reconsidered in the present review petition.

It is a settled principle of law that under the garb of review petition, party cannot seek to re-argue the petition so as to convince the Court so as to arrive at a different decision other than the one arrived at initially. In case parties are aggrieved against the opinion of the Court, they can avail an appropriate remedy of appeal admissible.

In the present case, the facts show that the present review petition has been filed without any valid justification as despite various opportunities taken to address arguments, the learned counsel for the applicant-State has not been able to point out even a single incorrect fact which has been noticed in the judgment dated 19.09.2022 passed by this Court. Keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeals No.5503-04 of 2022** titled as **S. Madhusudhan Reddy vs. V. Narayana Reddy and others** and **Civil Appeal No.5505 of 2022** titled as **S. Narsimha Reddy vs. V. Narayana Reddy and others** decided on 18.08.2022 under the garb of review petition without there being any incorrect fact on record, review petition is not maintainable. Relevant paragraph of the judgment in **S. Madhusudhan Reddy (supra)** is as under:-

“26. 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. A 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 30 (2020) SCC Online SC 896 Civil Appeals No. @ SLP (C) Nos.9602-03 of 2022 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 explained to mean “a reason sufficient on grounds, at least analogous to those specified in the rule” (Refer: [Chajju Ram v. Neki Ram](#)¹⁷ and [Moran Mar Basselios Catholicos and Anr. v. Most Rev. Mar Poulse Athanasius and Others](#)”).

Keeping in view the above, no ground is made out to allow the present review applications and the same are accordingly dismissed.

Before parting, it may be noticed that the present review applications are not bonafide in nature rather the same have only been filed so as to raise a plea before the contempt Court, where the contempt petition has been filed by the petitioner(s) for the implementation of the order in question. Order sought to be reviewed has been passed by this Court on 19.09.2022 and the present review petitions have been filed in February, 2023. Limitation of filing a Letter Patent Appeal is of 30 days, which expired in October, 2022 itself. The time taken by the applicant-State in filing the present review petitions and that too without pointing out any incorrect fact shows that the said review petitions are not bonafide but to create a defence before the Court hearing contempt petition that in respect of the order qua which contempt proceedings have been initiated, review is pending consideration.

Further, in the order sought to be reviewed, a direction was given to implement the same within a period of two months. The said period of two months also lapsed since long.

On being asked, learned counsel for the applicant-State conceded the fact that they have not implemented the order dated 19.09.2022 passed by this Court, which shows that without there being any factual discrepancy in the order in question, review has been sought only to challenge the view of this Court, which has already been taken, which is impermissible.

The State is a welfare State and has to act in accordance with law. In the present case, the petitioners, who are working with the respondent-department for the last more than 14 years are being harassed. The tendency of the department to file a review at a drop of a hat without any valid reason needs to be strictly dealt with so that review should only be filed in the cases where it is actually required. Though, this Court was of the view that present review petition should be dismissed with cost but as the opinion to file a review is of the office of the Advocate General, Haryana, no costs are imposed but any such kind of repetition will not be taken lightly.

CM-3645-4578-4579-2023

Applications are also dismissed.

A photocopy of this order be placed on the file of connected case.

March 27, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE