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RA-CW-190-2020, CM-9196-CWP-2020 and CM-2268-CWP-2022 in CWP-12850-2019

BALJIT SINGH V/S PUNJAB UNIVERSITY AND OTHERS

Present: Mr. Karambir Singh, Advocate,
for the review applicant/respondents No. 3 and 4.

Mr. Mohit Vashishat, Advocate
for the petitioner.

CM-9196-CWP-2020

Application for placing on record documents is allowed subject to just exceptions.

CM-2268-CWP-2022

Preonement application is dismissed as having become infructuous.

RA-CW-190-2020

1. The applicants/respondents No.3 and 4 to the writ petition have preferred this review application after withdrawing their LPA from the Division Bench. It is stated that while passing the order dated 20.01.2020, this Court hastily directed the applicants to pay admissible retiral benefits to the petitioner and release the same within a period of four weeks.
2. Learned counsel for the applicants submits that there was no prayer made by the writ petitioner to be granted retiral benefits, and therefore the applicants were deprived to argue on the said aspect before the Court. It is stated that while the writ petitioner is entitled for retiral benefits, but no funds are available with the applicants and therefore directions could not have been given. Learned counsel submits that the order therefore deserves to be reviewed.

3. He further admits that the applicants are receiving regular grant in aid, but submits that the same is for the purpose of salary. On a pointed query made to him as to whether aid is being released for the purpose of retiral benefits, he fairly admits that no such aid is being released. However, he submits that there are lots of dues pending as against the State.
4. I have considered the submissions.
5. The Supreme Court in the case of ***S. Murali Sundaram vs. Jothibai Kannan and others, 2023 SCC Online SC 185***, held as under:

“15. While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In the case of Perry Kansagra (supra) this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC this Court had summed upon as under:

“(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit."

6. This is a case where litigation was decided way back in the year 2020. The petitioner had approached this Court against the order of the respondents in retiring him on 10.05.2020 instead of the last day of the month. Later on, the respondents corrected the order and retired him on 31.05.2020, but while retiring the petitioner, they did not pay the salary for the entire month of May, 2020. The Court directed them vide the order to release the salary for the month of May, 2020 and also to pay the retiral benefits. The petitioner in his writ petition has prayed as under:

“(e) Issue any other appropriate writ, order or direction as this Hon’ble Court may deem just and proper in the facts and circumstances of the case and in the interest of justice.”

7. Thus, it cannot be said that there was no prayer to pass ancillary orders. Even otherwise, this Court can mould the relief and pass suitable orders to end the litigation finally, and it does not lie in the mouth of the respondents to state that the order was passed in haste by the Court.
8. The review petition is ***dismissed*** with costs of Rs.10,000/- to be paid to the petitioner.
9. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

05.12.2023
mohit goyal