

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.112 of 2023

In
Civil Writ Jurisdiction Case No.4044 of 2021

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1. The Union of India through the General Manager, East Central Railway, Hajipur, P.o.- Hajipur, Dist.- Vaishali (Bihar)
 2. The General Manager (Personnel), East Central Railway, Hajipur, P.o.- Hajipur, Dist.- Vaishali (Bihar)
 3. The Chief Electrical Engineer, East Central Railway, Hajipur, P.o.- Hajipur, Dist.- Vaishali (Bihar).
 4. The Senior Divisional Personnel Officer, East Central Railway, Dhanbad (Jharkhand).
 5. The Senior Divisional Electrical Engineer, East Central Railway, Central Railway, Dhanbad, (Jharkhand)
 6. The Senior Divisional Personnel Officer, East Central Railway, Danapur, P.o.- Khagaul, District- Patna (Bihar).

... .. Petitioner/s

Versus

1. Niranjan Bharti Son of Sri Subhash Prasad Assistant Loco Pilot, dhanbad under Senior Divisional Electrical Engineer, East Central Railway, Dhanbad Division, District- Dhanbad.
2. Rajesh Kumar Ranjan, Son of Sri Surendra Narayan Assistant Loco Pilot, dhanbad under Senior Divisional Electrical Engineer, East Central Railway, Dhanbad Division, District- Dhanbad
3. Bishun Deo Paswan, Son of Sri S.L. Paswan Assistant Loco Pilot, dhanbad under Senior Divisional Electrical Engineer, East Central Railway, Dhanbad Division, District- Dhanbad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Sr. Panel Counsel
For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 26-07-2024

The present Civil Review has been filed by Mr. Tuhin
Shankar, the then Panel Counsel and Advocate on record. Mr.



Awadhesh Kumar Pandey, Sr. Panel Counsel with R. K. Sharma, CGC and Mr. Lokesh seems to be Panel Counsel for the Union of India as on the date of filing of Civil Review. What has transpired on the date of disposal of the writ petition on 23.01.2023, the present counsel for the review petitioners, Mr. Satyabir Bharti, may not be aware.

02. In para-3 of the order dated 23.01.2023 passed in CWJC No. 4044 of 2021, we have held as under:-

“3. Today, learned counsel for the respective parties submitted that their original applications was within the time limit of one year and it was maintainable in the absence of any delay and Section 21 of the Administrative Tribunal Act is not attracted so as to file interlocutory application for condonation of delay. These material information has not been disputed in the supplementary affidavit filed by the petitioners. In the light of these facts and circumstances, writ petition filed against Niranjana Bharti, Rajesh Kumar Ranjan and Bishun Deo Paswan, respondent Nos. 1, 2 and 3 respectively by the Union of India - Department is hereby rejected in the light of the order passed in C.W.J.C. No. 4895 of 2020 decided on 04.07.2022.”



03. In the Review Petition, the review petitioners-Union of India-Department have raised technical issue to the extent that except 1st Respondent's Original Application (OA), the O.As. of other two respondents filed before the Central Administrative Tribunal (CAT) were belated for about two months with reference to Section 21 of the Administrative Tribunal Act which stipulates that original application was required to be filed within one year from the date of cause of action accrued to the aggrieved person/applicant. This has not been taken note of by the Central Administrative Tribunal in its order, which is the subject matter of CWJC No. 4044 of 2021. The same was not highlighted when CWJC No. 4044 of 2021 was decided on 23.01.2023, which is an oral judgment. In fact, reading of Para-3 of the order dated 23.01.2023 shows the same has been taken note of.

04. Learned counsel for the review petitioners submitted that one of the respondents has given an undertaking to the extent of posting him anywhere in the relevant Division/EC Railway. The same is taken note of by official respondent to that effect there was an internal communication between the two officers vide communication dated 12.05.2018. Having regard to the admission of one of the respondents to the



extent that he is prepared to work in any of the post in that particular Division and it binds him.

05. So far as the technical issue relating to delay is concerned, hardly there is two months delay in filing Original Application. If the CAT failed to consider the review petitioners' contention raised in their counter affidavit/written statement before the CAT, in that event, they had a remedy of filing the Civil Review. The same has not been exhausted. Therefore, the same cannot be examined in the writ as well as in the present Civil Review Case.

06. Admission of one of the respondents to the extent that he is prepared to work anywhere in the Eastern Railway Division, therefore, posting him to Dhanbad is in order. The same cannot be accepted for the reason that all the three respondents were working in South Central Railway. The Railway Authorities have formulated a policy relating to transfer of employees from one Division to another Division read with prescribed format of undertaking. The same has been obtained by the review petitioners. One of of the respondents who has given an undertaking to the effect that instead of Danapur, he can be posted elsewhere, is contrary to acceptance of his request of transfer from South Railway to East Central Railway. Taking



note of these facts and circumstances, it is not a case of civil review.

07. Be that as it may, the Hon'ble Supreme Court in the case of *Sanjay Kumar Agarwal v. State Tax Officer*, reported in **2023 SCC OnLine SC 1406**, elaborately considered under what circumstances civil review could be entertain. In this regard eight principles have been laid down by the Hon'ble Supreme Court which are as under:-

“(i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

(iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

(iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be “reheard and corrected.”

(v) A Review Petition has a limited purpose and cannot be allowed to be “an appeal in disguise.”

(vi) Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

(vii) An error on the face of record must



be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(viii) Even the change in law or subsequent decision/ judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review.”

08. In yet another decision in the case of *Arun Dev Upadhyaya Vs. Integrated Sales Service Ltd. & Anr.*, reported in *AIR 2023 SC (Supp) 630*, the Hon’ble Supreme Court elaborately considered Section 114 of CPC read with Order 47 Rule 1 and these judgments are against the petitioners in so far as entertaining their Civil Review No. 112 of 2023. Civil review petitioners have not made out case on facts and in the light of Hon’ble Supreme Court’s decision.

09. In the light of aforesaid facts and circumstances, the present Civil Review Petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/-
Balmukund/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2024
Transmission Date	NA

