

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.261 of 2017

In
Civil Writ Jurisdiction Case No.5483 of 2001

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Raj Deo Sinha, Son of Late Ramaotar Sinha, resident of Mohalla- Jay Prakash
Nagar, P.S.- Jakkanpur, District- Patna.

... .. Petitioner

Versus

1. The State Of Bihar.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Commissioner-cum-Secretary, Department of Rural Development,
Govt. of Bihar, Patna.
4. The Engineer-in-Chief-Cum-Additional Commissioner- cum-Special
Secretary, Road Construction Depart
5. The Director Panchayati Raj Directorate, Govt. of Bihar, Patna.
6. Chandra Bhushan Singh son of Sri Babban Singh, District Engineer Saran,
Chapra, resident of Bara Naya Basti, Chapra, Saran, Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Kripa Nand Jha, Advocate
		Ms. Sandhya Kumari Sinha, Advocate
For the Opposite Party/s :		Mr. Deepak Sahay Jamuar, AC to AAG-4

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

Date : 18-07-2024

The review petitioner has assailed the order of the
Co-ordinate Bench decision dated 02.02.2017 passed in
C.W.J.C. No. 5483 of 2001.

2. Grievance of the review petitioners are in respect
of providing avenues of promotions more than the number of
posts in the cadre of District Engineer. It is submitted that cadre



strength in the Assistant Engineer is 26, whereas 04 posts are available to District Engineer cadre. If 04 posts are occupied by seniors, in that event, juniors would be retiring without promotion. These are all the policy matters of the State Government.

3. In this regard Hon'ble Supreme Court time and again held that policy matter cannot be adjudicated in the judicial forum. In the case of ***P.U. Joshi & Others vs. Accountant General & Others*** reported in (2003) 2 SCC 632.

In para 10, it is held as under:

“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues



of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and



bring into force new rules relating to even an existing service.”

The same has been reiterated in case of ***Puspa Rani vs. Union of India*** reported in **(2008) 9 SCC 242**. In view of these facts and circumstances, the review petitioner has not made a case so as to interfere with the order dated 02.02.2017 passed in C.W.J.C. No. 5483 of 2001.

4. Further, scope of civil review petition is limited under Order 47 Rule 1 of C.P.C. Even on this point, Hon’ble Supreme Court in the case of ***Sanjay Kumar Agarwal v. State Tax Officer (1) & Anr.*** reported in **2023 SCC OnLine SC 1406** laid down eight principles in Para 16 which reads as under:-

“16. The gist of the afore-stated decisions is that:—

(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 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.”

5. Accordingly, the review petitioner has not made out a case. Hence, Civil Review No. 261 of 2017 stands dismissed. If the promotional avenues are not available having regard to the cadre strength, in that event, review petitioners are entitled to claim A.C.P. and M.A.C.P benefits/time bound promotion, if any scheme of the State provides for him, the



same can be availed. In this regard, if the petitioners approach the concerned authority, they shall examine and redress the grievance of the petitioner.

6. With the above observation, the review petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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