

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.38 of 2021

In
Civil Writ Jurisdiction Case No.23778 of 2019

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1. The Union of India through the General Manager, East Central Railway, Hajipur, District- Vaishali, Bihar.
 2. The Divisional Railway Manager, East Central Railway, Mugalsarai.
 3. The Senior Divisional Commercial Manager, East Central Railway, Mugalsarai.
 4. The Senior Divisional Personnel Officer, East Central Railway, Mugalsarai.
 5. The Senior Divisional Financial Manager, East Central Railway, Mugalsarai.

... .. Petitioner/s

Versus

Sallauddin Son of Late Ali Hussain, Ex-travelling Ticket Inspector, East Central Railway Gaya, Resident of Old Karamganj Road No. 2, near Madarsa, Shamsul Ollon, District - Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr Din Bandhu Singh, Advocate Sr. Panel Counsel Mr. R.K. Sharma, CGC Mr. Sushant Praveen, Advocate
For the Opposite Party/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 15-01-2024

The present Civil Review petition is filed for recalling the order dated 02.12.2019 passed in CWJC No. 23778 of 2019.

2. Grievance of the respondent-Sallauddin is that he has been denied monetary benefits with reference to his promotion to



the post of CIT w.e.f. 27.12.2012, the date on which Sri N.K. Singh who was junior in the cadre was promoted as CIT. Respondent-Sallauddin was extended the monetary benefit of promotion w.e.f. 01.11.2013, however, arrears of salary (difference of salary) has been denied during the intervening period from 27.12.2012 to 01.11.2013 only on the score that he was promoted on par with Sri N.K. Singh on a different date. Such denial of promotion is on account of certain clerical errors committed by official review-petitioners. In other words, there was no default on the part of respondent-Sallauddin insofar as denial of promotion with reference to his immediate junior Sri N.K. Singh was promoted to the post of CIT w.e.f. 27.12.2012. In other words, there was a fault on the part of the review petitioners-railway department in not promoting respondent-Sallauddin on par with Sri N.K. Singh and he was promoted on 01.11.2013. However, difference of salary against the promotional post of CIT has been denied during the period from 27.12.2012 to 01.11.2013. The petitioners are taking shelter of Para 228 of the Indian Railway Establishment Manual (IREM). The same has been taken note of by the Co-ordinate Bench while deciding CWJC No. 23778 of 2019 decided on 02.12.2019.



3. Reading of the aforementioned Rule or Para, 228, it is not attracted in the present case, for the reasons that there is no erroneous promotion given either to Sri N.K. Singh or to the respondent-Sallauddin. On the other hand, the situation is totally different only to the extent that respondent-Sallauddin has been overlooked due to clerical mistake stated to have been committed by the petitioners and it is not disputed by them.

4. Scope of review is limited in the light of Order 47 Rule 1 of CPC. Hon'ble Apex Court in the case of **S.Murali Sundaram vs. Jothibai Kannan & Ors.** reported in **2023 SCC OnLine SC 185** elaborately considered under what circumstances courts can review its own order. Recently in yet another decision in the case of **Sanjay Kumar Agarwal v. State Tax Officer (1) & Anr.** reported in **2023 SCC OnLine SC 1406** Supreme Court lays 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 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.”

6. In the light of principles laid down by the Hon'ble Apex Court in its decision the petitioners have not made out a case so as to recall the order or review the order



dated dated 02.12.2019 passed in CWJC No. 23778 of 2019.
Hence, the civil review petition stands dismissed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

Vikash/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

