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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 12272/2006

U.P.RAJKIYA NIRMAN NIGAM LTED.Petitioner

Through: Ms.Jyoti Tewari, Advocate

versus

P.L.CENTRAL GOVERNMENT INDUSTRIESRespondent

Through: Mr.Vikram Kumar & Mr.Prashant
Kumar, Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **06.08.2024**

CM APPL. 37208/2024 (exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

CM APPL. 37207/2024 (delay in filing the review petition)

1. The instant application under Order XLI Rule 3A read with Order XLII Rule 1 of the Code of Civil Procedure, 1908 (hereinafter "CPC") read with Section 5 of the Limitation Act, 1963 read with Section 151 of the CPC has been filed on behalf of the applicant/petitioner seeking condonation of delay of 60 days in filing the accompanying review petition.

2. For the sufficient cause being shown in the instant application, the same is allowed and the delay of 60 days in filing the accompanied review petition is condoned.

3. Accordingly, the instant application stands disposed of.

REVIEW PET. 255/2024 (seeking review of order passed in the captioned writ petition)

1. The instant review petition under Section 114 read with Order XLVII



read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the review petitioner seeking the following reliefs:-

- “a. Review the Order/Judgment dated 14/03/2024 passed by this Hon'ble Court;*
- b. Pass order/Judgement in favour of the Applicant and against the Respondent .*
- c. Pass any such further Orders, directions which this Hon'ble Court deems fit and appropriate to sub serve the ends of the justice.”*

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner had filed the captioned writ petition seeking setting aside of the award dated 10th March, 2006, passed by the learned Industrial Tribunal in case bearing I.D. no. 166/1999.

3. It is submitted that in the said award, the learned Tribunal had passed directions against the petitioner to reinstate the respondent no. 2 workman along with 50% back wages.

4. It is submitted that *vide* the impugned order dated 14th March, 2024, passed by this Court in the captioned writ petition, the captioned writ petition was dismissed as rendered infructuous. It is submitted that the impugned order is bad in law and the same is liable to be reviewed since there is an error apparent on the face of the record.

5. It is submitted that this Court wrongly interpreted the statement of the learned counsel appearing on behalf of the petitioner on 14th March, 2024 and passed the impugned order stating that the captioned writ petition is dismissed as rendered infructuous.

6. Therefore, in view of the foregoing submissions, it is prayed that the instant review petition may be allowed.



7. *Per Contra*, the learned counsel appearing on behalf of the respondent no. 2 vehemently opposed the instant review petition submitting to the effect that the same is a gross abuse of process of law and may be dismissed being bereft of any merits.

8. Heard the learned counsel appearing on behalf of the parties and perused the material on record.

9. It is the settled position of law that the power of this Court under its review jurisdiction is exercised in cases where there exists error apparent on the face of the record and in such an event, the order or judgment can be corrected.

10. The Hon'ble Supreme Court in its judgment titled as ***Kamlesh Verma v. Mayawati*, (2013) 8 SCC 320**, has carved out the essential grounds *qua* review. The relevant paragraphs of the said judgment are reproduced hereunder:

“..20.1. When the review will be maintainable:

(i) Discovery of new and important matter of evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any Sufficient reason.

The words “any other sufficient reason” have been interpreted in Chhajju Ram v. Neki and approved by this Court in Moran Mar Basselios Catholics v. Most Rev. Mar Poulouse Athanasius to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd.



20.2 When a review will not be maintainable:

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.*
- (ii) Minor mistakes of inconsequential import.*
- (iii) Review proceedings cannot be equated with the original hearing of the case.*
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.*
- (vi) The mere possibility of two views on the subject cannot be a ground for review.*
- (vii) The error apparent of the face of record should not be an error which has to be fished out and searched.*
- (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.*
- (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived...”*

11. The aforementioned judgment states that a Court cannot act as an appellate Court for its own judgments, nor can it allow petitions for review based only on the claim that one of the parties believes the judgment has wronged him. If matters that the Court has already decided on could be reopened and reheard, the same would be detrimental to the public interest. Moreover, unless there are errors which are apparent on the face of the record, the Court cannot invoke its review jurisdiction.



12. At this stage, this Court finds it pertinent to peruse the impugned order and the relevant portion of the same is as under:

“..It is submitted on behalf of the petitioner, since the respondent No.2 has already been reinstated in terms of the directions of the Tribunal and the back wages have also been paid to him, nothing is left for further adjudication in the present petition and thus the same is rendered infructuous.

In view of the above, the petition is thus dismissed as rendered infructuous...”

13. Upon perusal of the aforesaid extracts of the impugned order, it is observed that the captioned writ petition was dismissed on 14th March, 2024 after the learned counsel appearing on behalf of the petitioner submitted her consent that since the respondent no. 2 has already been reinstated in terms of the award of the learned Industrial Tribunal and that the back wages have also been paid to the said respondent, nothing is left for further adjudication in the captioned petition, and thus, the writ petition may be dismissed as rendered infructuous.

14. It is observed that based on the consent given by the learned counsel for the petitioner that nothing is left for further adjudication, the captioned writ petition was dismissed as rendered infructuous.

15. Admittedly, from the bare reading of the impugned order, it is evident that the same was passed after recording the consent of the learned counsel appearing on behalf of the petitioner that the directions passed in the award dated 10th March, 2006, passed by the learned Industrial Tribunal in case bearing I.D. no. 166/1999 have been already complied with.

16. In light of the facts of the instant case, this Court is of the considered view that there is no error apparent on the face of the record and there is no



force in the arguments advanced on behalf of the petitioner and the same does not hold any merit.

17. This Court is of the view that the grounds taken by the petitioner are not substantial and do not fall within the scope of review. It is pertinent to mention herein that on the date of passing the impugned order, this Court did not even hear the matter on merits, rather, the same was dismissed on the basis of consent of the learned counsel appearing on behalf of the petitioner. This Court is of the considered view that when the matter was not heard on merits and was dismissed on the basis of the consent of the learned counsel appearing on behalf of the petitioner, there does not arise any grounds for reviewing the order. Therefore, the case of the petitioner that this Court has committed error does not hold any water as no errors are apparent on the face of the record.

18. Taking into consideration the observations made by this Court hereinabove, it is held that the instant review petition is nothing but a gross misuse of process of law and the same is liable to be dismissed being bereft of any merit.

19. In view of the aforesaid facts and circumstances, the instant review petition stands dismissed along with the applications, if any.

CHANDRA DHARI SINGH, J

AUGUST 6, 2024

Dy/ryp/aa

Click here to check corrigendum, if any