

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.94 of 2025

In
Civil Writ Jurisdiction Case No.11309 of 2014

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1. Jai Prakash University Chapra through Vice Chancellor, Chapra at Saran
 2. The Registrar, J.P. University, Chapra (Saran)
 3. The Finance Advisor, Jai Prakash University, Chapra (Saran)
 4. The Finance Officer, Jai Prakash University, Chpara (Saran)

... .. Petitioner/s

Versus

1. Md. Nurulain Son of Late Md. Zakaria R/o Mohalla- Nabiganj (Near Dado Saheb Ka Majar) P.O.-Chapra P.S-bhagwan Bazar, District-Saran
2. The State of Bihar through the Secretary Higher Education, Government of Bihar, Patna.
3. The B.R.A. Bihar University Muzaffarpur through its vice chancellor.
4. The Registrar, B. R.A. Bihar University, Muzaffarpur.
5. The Principal, Rajendra College, Chapra.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bajarangi Lal, Advocate
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13
For the O.P. No.1	:	Mr. Arshad Alam, Advocate
		Ms. Anjum Parveen, Advocate
		Mr. Kamran Fazal, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 01-08-2025

1. Heard learned counsel for the Jai Prakash University, Chapra/petitioners, learned counsel for the writ petitioner/opposite no.1 and learned counsel for the other opposite parties.

2. The petitioners have filed the instant application praying for review of the judgment dated 1.3.2024 passed in CWJC no.11309 of 2014. The reliefs sought for by the petitioners in paragraph no.1 of the review application is



reproduced herein below for ready reference :-

“i. For Review of the order dated 01-03-2024 passed by the Honb’le Mr. Justice Partha Sarthy in C.W.J.C.No.-11309 of 2014 as the order under review has been obtained by suppressing material fact before this Hon’ble court that representation of petitioner for regularisation of service of the petitioner was earlier rejected vide order dated 20-05-1996, but without assailing the said order of rejection the petitioner managed to continue on the post and subsequently he filed another representation and successfully got his service regularised vide memo no.-3769 (R) dated-15.07.2013 and then he claimed consequential and financial benefit in instant writ petition under review.

ii. To Re-hear the writ petition afresh after giving due opportunity of hearing to the present petitioners and dismiss the writ petition.

iii. For grant of liberty to the petitioner University to take appropriate departmental action against the petitioner in the facts and circumstances of the present case especially in view of the fact that the writ petitioner has succeed in getting the order of regularisation dated 15-07-2013 in complete suppression of fact that representation for regularisation of his service was already rejected on 20-05-1996

iv. For any other order/ orders to which petitioner is entitled in the facts and circumstances of the instant case.”



3. The case of the writ petitioner/opposite party no.1 in brief is that having been appointed as an Assistant on temporary basis on 24.7.1981, the services of the writ petitioner not having been regularised, he moved this Court in CWJC no.7593 of 1994 which was disposed of by order dated 24.1.1996 giving liberty to the writ petitioner to pursue the matter before the Vice Chancellor.

4. The representation filed by the writ petitioner for regularization was rejected on 20.5.1996, however on his representing once again, the University came out with an order on 15.7.2013 regularising his services on the post of Accounts Assistant in the Rajendra College, Chapra. The said regularisation was against the sanctioned vacant post in the prescribed scale of pay with admissible allowance with retrospective effect ie from 21.4.1981.

5. Not having been paid the consequential benefits on regularisation, the writ petitioner moved this Court in CWJC no.11309 of 2014, which was allowed vide judgment dated 1.3.2024 directing the Registrar, Jai Prakash University to pay the consequential benefits arising out of the order dated 15.7.2013 (Annexure-9 to CWJC no.11309 of 2014) within a period of four months. It is this judgment dated 1.3.2024 passed



in CWJC no.11309 of 2014 of which the instant review application has been prayed for by the Jai Prakash University.

6. Learned counsel appearing for the University submits that the fact not in dispute is that pursuant to the order dated 24.1.1996 having been passed in the writ petitioner's earlier case ie CWJC no.7593 of 1994, the representation filed by the writ petitioner was rejected by the then Vice Chancellor and communicated to the petitioner on 20.5.1996. It is also not in dispute that the said order was never challenged and remains unchallenged till date. It is further submitted that the then Acting Vice Chancellor not having any authority passed an illegal order on 15.7.2013 regularising the services of the petitioner with retrospective effect. The writ petitioner suppressed the fact that on his representation for regularisation having been rejected in the year 1996, till what period he was not in service.

7. Learned counsel for the University further submits that pursuant to the direction of the Hon'ble Chancellor, a one man Committee under Hon'ble Mr. Justice Akhilesh Chandra (retired) conducted an enquiry and gave a finding to the effect that the writ petitioner's regularisation as well as the order relating to payment is highly questionable and needs deep



scrutiny for further legal action in accordance with law.

8. In response, it is submitted by learned counsel appearing for the opposite party no.1/writ petitioner that for a review application to succeed, the review applicant needs to make out a case under any of the provisions contained in Order XLVII Rule 1 of the Code of Civil Procedure. No case whatsoever for review of the order passed in the writ application has been made out by the University. Further with respect to the contention of learned counsel for the University that the petitioner had suppressed the period that he was working, learned counsel for the writ petitioner refers to Annexure-6/C and Annexure-6/D to the writ application which are letters written by the Professor Incharge of the Rajendra College, Chapra to the Registrar, Jai Prakash University, Chapra categorically stating therein that the petitioner has been working in the College since 21.4.1981 without any break and and has served to the best of the College's satisfaction. In reference to the report of the one man Committee which is said to have conducted an enquiry pursuant to the directions of the Hon'ble Chancellor, learned counsel for the writ petitioner submits that besides the report being undated, at best what can be said from the contents thereof is that only some suspicion has been raised,



besides the fact that there is no consideration of the case of the writ petitioner. It would also be relevant to note that the said Committee had worked on communication from the Governor's Secretariat as contained in Letter dated 22.4.2015 and these facts were very much available to the writ respondent/University during the hearing of the writ application, which came to be disposed of on 1.3.2024. Learned counsel for the University very fairly submits that this report was also on record in the writ application.

9. It may be observed that it is now well settled that a review proceeding cannot be equated with the original hearing of the case. Though the first prayer of the review applicant is for review of the judgment dated 1.3.2024, however prayer made in paragraph no.1(ii) is 'to re-hear the writ petition afresh.....'. In the opinion of the Court this is exactly what cannot be done by the Court. Review of an earlier order can only be done on the Court being satisfied that material error manifest on the face of the order has occurred which undermines its soundness or results in miscarriage of justice.

10. In the case of **Col. Avtar Singh Sekhon vs. Union of India**; 1980 Supp. SCC 562, the Hon'ble Supreme Court held as follows :-

"A review is not a routine procedure.



*Here we resolved to hear Shri Kapil at length to remove any feeling that the party has been hurt without being heard. But we cannot review our earlier order unless satisfied that material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. In **Sow Chandra Kante v. Sheikh Habib, (1975) 1 SCC 674**, this Court observed: (SCC p. 675, para 1)*

“A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility.... The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality.”

11. The scope of Order XLVII Rule 1 CPC, dealing with review of a judgment, has been succinctly stated by the Supreme Court in **Parsion Devi & Ors. vs. Sumitri Devi & Ors.; (1997) 8 SCC 715** as under :-

*“It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In **Thungabhadra Industries Ltd. vs. Govt. of A.P. (1964) 5 SCR 174***



(SCR at p. 186) this Court opined:

“What, however, we are now concerned with is whether statement in the order of September 1959 that the case did not involve any substantial question of law is an ‘error apparent on the face of the record’. The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an ‘error apparent on the face of the record’, for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by ‘error apparent’. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.”

(emphasis supplied)

12. At this stage, it would also be relevant to refer to the judgment in the case of **State of West Bengal & Ors. vs. Kamal Sengupta & Anr.; (2008) 8 SCC 612**, wherein the Hon’ble Supreme Court after referring to the provision of review under Order XLVII of the CPC and a number of other judgments in the case of Rajah Kotagiri Venkata Subbamma



Rao vs. Rajah Vellanki Venkatrama Rao; (1899-1900) 27 IA 197, Hari Sankar Pal vs. Anath Nath Mitter; 1949 FCR 36, Moran Mar Basselios Catholicos vs. Mar Poulouse Anthanasius; AIR 1954 SC 526, Thungabhadra Industries Ltd. vs. Govt. of A.P.; AIR 1964 SC 1372, Parsion Devi vs. Sumitri Devi; (1997) 8 SCC 715, Haridas Das vs. Usha Rani Banik; (2006) 4 SCC 78, Aribam Tuleshwar Sharma vs. Aribam Pishak Sharma; (1979) 4 SCC 389, K. Ajit Babu vs. Union of India; (1997) 6 SCC 473, Ajit Kumar Rath vs. State of Orissa; (1999) 9 SCC 596, State of Haryana vs. M.P. Mohla; (2007) 1 SCC 457 and Gopal Singh vs. State Cadre Forest Officers' Assn.; (2007) 9 SCC 369, proceeded to state the grounds for review. Paragraph no. 35 of **Kamal Sengupta** (*supra*) reads as follows :-

“35. The principles which can be culled out from the abovenoted judgments are:

(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.

(iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

(iv) An error which is not self-evident



and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or a development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.

(emphasis supplied)

13. Thus from the facts stated herein above, the review applicants/Jai Prakash University have not been able to point out any error apparent on the face of the judgment dated 1.3.2024. They have placed reliance on documents which were



already available in the writ application and in the opinion of the Court, in the garb of the review application the review petitioners are seeking rehearing of the writ application. The same would also be evident from the prayer made in paragraph no.1(ii) of the review application.

14. The petitioners have not made out any case for review of the judgment dated 1.3.2024 passed in CWJC no.11309 of 2014.

15. The Court finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

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CAV DATE	N/A
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