IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL REVIEW No.334 of 2024

In

Letters Patent Appeal No.310 of 2020

Nagendra Sharma son of Late Subhansh Singh, Resident of Village- Maurya Vihar Colony Walmi Canal Road, near Devi Asthan, Police Station- Phulwarisharif, District-Patna.

... ... Petitioner/s

Versus

1. The Managing Director and CEO, Bank of India C-5, G-Block BKC, Bandra Kurla Complex, Bandra (East) Mumbai, Maharastra-51.
2. The Zonal Manager cum Appellate Authority, Bank of India, Patna Zone, Chanakya Place, Ist Floor, Birchand Patel Marg, Patna.
3. The Assistant General Manager, Bank of India cum Disciplinary Authority, Zonal Office, Patna Zone, Chanakya Tower, R-Block, Patna.
4. The General Manager, Bank of India HRD, IR Division, Star House, C-5, G-Block BKC, Bandra Kurla Complex, Bandra (East) Mumbai, Maharastra-51.

... ... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kundan Kumar Sinha, Advocate
For Opposite Party/s : Mr. Rajan Ghosharve, Advocate (for Bank of India)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL ORDER

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

4 04-04-2025 **<u>Re : I.A. No. 1 of 2024</u>**

Heard I.A. No. 1 of 2024.

2. There is delay of about 4 months and 23 days in filing the present Civil Review No. 334 of 2024. For the reasons stated in the application read with the affidavit, delay of about 4 months and 23 days is condoned. I.A. No. 1 of 2024 stands allowed.

3. Heard the present Civil Review No. 334 of 2024.

4. Learned counsel for the review petitioner submitted that in the order dated 06.05.2024 passed in LPA No. 310 of 2020, we have not taken note of a policy decision dated 24.08.2010 relating to Option to join Bank of India (Employees') Pension Scheme, 1995 in terms of agreement between the bank association and the management dated 27.04.2010. He has pointed out paragraph No. 3 and it reads as under :

> *"3. It also may be noted that the employees who have ceased to be in the service of Bank on account of Resignation / Voluntarily retired under Officer's Service Regulation 19 / incapacitation / on medical grounds / any other type of cessation on account of penalty proceedings are not eligible to opt for joining the Pension Scheme. Also existing Pension optees cannot revoke their option from Pension to CPF."*

5. In the guise of implementation of order dated 06.05.2024, respondent-Bank *suo motu* proceeded to communicate its decision on 13.08.2024 to the extent that review petitioner is not eligible for PL encashment. On these two counts review petitioner seeks for review of the order dated

06.05.2024. Scope of civil review is limited to the extent what is error apparent on the face of record. The original *lis* is in respect of dismissal from service as a measure of penalty and it was modified to that of compulsory retirement. Consequential issue relating to entitlement of any monetary benefits was not the issue, therefore, policy decision of the Bank dated 24.08.2010 cannot be taken into consideration. Further, respondent-Bank has taken *suo motu* decision that the review petitioner is not eligible for PL encashment, to that effect a communication has been made to the review petitioner on 13.08.2024. On these counts, review petitioner cannot seek for recalling of the order dated 06.05.2024.

6. Scope of review has been elaborately considered by the Hon'ble Supreme Court in the case of ***Sanjay Kumar Agarwal vs. State Tax Officer (1) & Anr.*** reported in **2023 SCC OnLine SC 1406** where following eight points have been taken into consideration :

> *"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."

7. In the light of these facts and circumstances and the fact that review petitioner has a fresh cause of action insofar as denial of PL encashment *vide* respondents communication dated 13.08.2024, therefore, the present civil review petition stands dismissed reserving liberty to the review petitioner to invoke appropriate remedy insofar as denial of PL encashment by the respondent-Bank *vide* its communication dated 13.08.2024.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

U			