

DL-2

RVW 257 of 2024

13.08.2025
Court No.3
(tkm)

**Principal Secretary, Urban Development & Municipal
Affairs Department (Municipal Affairs Branch)**

“Nagarayan” & Ors.

Vs.

Parthendu Mondal & Ors.

in

MAT 794 of 2024

With

IA No.: CAN 1 of 2024

IA No.: CAN 2 of 2024

**Principal Secretary, Urban Development & Municipal
Affairs Department (Municipal Affairs Branch),**

“Nagarayan” & Ors.

Vs.

Parthendu Mondal & Ors.

Mr. Naba Kumar Das, Advocate

Mr. Suman Singh, Advocate

... for the applicants

Md. Sarwar Jahan, Advocate

Mr. Partha Banerjee, Advocate

Ms. Tapati Sarkar, Advocate

... for the writ petitioner/respondent no. 1

1. The present review petition has been filed by the appellant seeking review of the judgment dated 23.07.2024 passed in MAT 794 of 2024. By the said judgment, this Court dismissed the appeal preferred by the appellant and upheld the order dated 19.12.2023 passed by the learned Single Judge in WPA 17331 of 2023.
2. The respondent had filed WPA 17331 of 2023 on the ground that he was promoted to the post of Assistant Engineer pursuant to a resolution adopted by the Board of Councilors of Asansol Municipal Corporation on 28.04.2017.
3. He contended that he was entitled to financial

benefits attached to the said post only upon the approval of the department of Urban Development and Municipal Affairs (UDMA). However, such approval was not granted by the said department. Aggrieved thereby, the respondent had approached this Court by way of a writ petition being WPA 17331 of 2023. The learned Single Judge, vide order dated 19.12.2023, disposed of the writ petition with a direction to the Principal Secretary, UDMA to accord approval to the promotion of the petitioner to the post of Assistant Engineer at the earliest, but positively within a period of eight weeks from the date of communication of the order.

4. Aggrieved by the said order, the appellant preferred an intra-court appeal being MAT 794 of 2024, which was heard on 23.07.2024.

5. Despite repeated queries, learned Counsel for the appellant was unable to offer any plausible explanation for withholding the approval of the respondent's promotion. Consequently, this Court dismissed the said appeal.

6. Appellant now has preferred the present review petition contending that

- (i) as per gradation list of feeder cadre, three officers senior to the respondent have not yet had their appointments to the post of Assistant Engineer

regularized, hence, regularizing the respondent's promotion would disturb the gradation list;

- (ii) the appellant had not received confirmation as to whether 50 point roster was followed by the Asansol Municipal Corporation while granting promotion to the respondent in 2017;
- (iii) although the respondent was granted promotion in 2017, there was no vacancy for the said post of Assistant Engineer at that time. The vacancy arose only on 01.09.2021 upon retirement of Sri Sati Prasad. Koner

On this ground, the appellant seeks review of the judgment dated 23.07.2024.

7. It is well settled principles of law that the scope of review under Article 226/227 of the Constitution of India or under the provisions applicable to intra-court appellate proceeding, is extremely circumscribed. A review is not an appeal in disguise and cannot be invoked merely for the purpose of re-arguing the case or improving upon submissions earlier made. The jurisdiction of this Court in review is confined to correcting an *error apparent on the face of the record*, which is an error so manifest and obvious that it does not require elaborate argument to establish, or to

considering a *discovery of new and important matter or evidence* which, despite the exercise of due diligence, could not be produced at the time the judgment was delivered. Any attempt to reopen issues already decided, without meeting the strict test, amounts to abuse of the process of the Court.

8. In the present case, the so called new facts now relied upon by the appellant, viz., the existence of gradation list indicating that three officers senior to the respondent had not been regularized, the alleged non-availability of vacancy in the year 2017, and the absence of confirmation regarding compliance with the 50 point roster, were neither newly discovered nor beyond the knowledge of the appellant at the relevant time. The gradation list was at all times within the custody and knowledge of the appellant. The vacancy position in respect of the post of Assistant Engineer was a matter of official record readily available to the appellant. Even the alleged doubt regarding roster compliance could have been raised in the earlier proceeding with bona fide due diligence. The appellant despite being fully aware of this fact chose not to place them before this Court during the hearing of MAT 794 of 2024. It is therefore, evident that the present review petition is not based on any discovery of new evidence or any

patent error apparent on the face of record, but is in effect an attempt to have a second hearing on the same issues, dressed up as a plea for review. Such an exercise is fully impermissible in law. A review cannot be claimed as a matter of right to fill in lacuna left in earlier case. nor can it serve as a substitute for proper preparation and presentation at the appellate stage.

9. In these circumstances, this Court finds no merit whatsoever in the grounds urged by the appellant.

10. Accordingly, for the reasons stated hereinabove, this Court is not inclined to exercise its review jurisdiction. The review petition, is, therefore, dismissed in limine with observation that the repeated litigations on the same cause, without fulfilling the stringent requirement of review, undermines the finality of the judicial determination and shall not be countenanced.

(Gaurang Kanth, J.)

(Reetobroto Kumar Mitra, J.)