

IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

(Appellate Side)

Present: THE HON'BLE JUSTICE RAJARSHI BHARADWAJ

R.V.W 111 of 2016

In

WPA 31076 of 2014

Reserved on : 15.09.2025

Pronounced on: 19.09.2025

Anita Maity (Das)

...Applicant

-Vs-

The State of West Bengal & Ors.

...Respondents

Present:-

Mr. Anindya Bose

Ms. Cardina Roy

... .. for the applicant

Mr. Jayanta Kumar Das

Ms. Madhumanti Das

Mr. Debasish Das

... .. for the respondents

Rajarshi Bharadwaj, J:

1. The present review petition filed by the respondents seeks review of the Judgment and Order dated 9th June, 2015 delivered by Hon'ble Justice Dr. Sambuddha Chakraborti, in W.P. No. 31076(W) of 2014. The applicant/petitioner is constrained to move this review petition, being aggrieved by and dissatisfied with the aforementioned order.

2. The present matter relates to a petition wherein the applicant, having come to know of certain material facts subsequent to the passing of the order in W.P. No. 31076 (W) of 2014, seeks review for preventing grave injustice. The applicant discovered that the private respondent, who was placed in the first position in the panel for the post of Sanitary Assistant (Unreserved Category)

under Egra Municipality, District Purba Midnapur, is a close relative of the Chairman of the said Municipality. Significantly, the Chairman himself was a member of the Selection Committee, thereby creating an inherent conflict of interest. Such facts, not available to the applicant despite due diligence, vitiate the entire selection process on the grounds of arbitrariness.

3. The applicant further submits that the private respondent did not possess the essential qualification of Pre-Service Training, which was specifically prescribed in the advertisement for the post. Despite lacking this mandatory eligibility, he was shown as first in the panel prepared by the Selection Committee. This demonstrates clear illegality and undue favouritism in the conduct of the recruitment process. The applicant states that these new facts, having been discovered subsequently, could not be brought to the notice of the Court at the earlier stage and therefore call for a review of the order. Unless such review is undertaken, the applicant will suffer irreparable loss and injury as the tainted appointment will go uncorrected.

4. It is also submitted that the Hon'ble Division Bench, by its judgment and order dated 14th March, 2016 in AST No. 151 of 2015 (Anita Maity v. State of West Bengal & Others), was pleased to grant liberty to the applicant to approach the learned Single Bench in review. The instant petition, therefore, is maintainable in terms of the directions of the Division Bench.

5. The applicant contends that the Single Bench, while passing the order under review, did not consider the twin aspects which fatally affect the selection process first being the nepotism and illegality arising from the participation of the Chairman in a process where his own near relative was a candidate and was ultimately selected and second, the ineligibility of the private respondent in absence of the mandatory Pre-Service Training qualification. Consideration of these aspects is vital for securing justice and preserving the fairness of public recruitment. In view of the above facts and

circumstances, the applicant submits that the impugned judgment and order is liable to be reviewed by this Hon'ble Court.

6. The Learned Counsel appearing for respondent no. 6 submits that the grounds urged in the review application are wholly without merit. It is contended that although the applicant alleges that respondent no. 6 is a relative of the Chairman, Egra Municipality, the fact remains that they have been residing separately for more than thirty-five years and mere distant family connection cannot establish bias. It is further urged that the Chairman was not present at the time of the interview of respondent no. 6 and had not awarded any marks to him, the panel was prepared solely on the basis of marks given by other independent members of the selection committee, against whom no allegation has been raised. With regard to the plea of absence of pre-service training, the respondent no. 6 had undergone such training between 1st June- 31st August, 2015 pursuant to the resolution of the Board of Councillors, thus fulfilling all statutory requirements.

7. Learned Counsel on behalf of the respondent no. 8, submits that the application for review is not maintainable, being filed with an inordinate delay of 299 days from the date of the judgment and without sufficient explanation. It is further urged that no case for review has been made out as the alleged new facts were already within the knowledge of the applicant, she being the then Chairman of the concerned Municipality and well acquainted with respondent no. 6. It is also pointed out that the members of the Selection Committee, who were necessary parties, were never impleaded, rendering the application defective.

8. The respondent no. 8 has also contended that the entire recruitment process was conducted strictly in accordance with law, following due advertisement, evaluation of written and viva voce examinations and preparation of a merit panel, which was duly approved by the State Government. The applicant herself participated in the process, stood second

in merit and never challenged the same before any authority until after the appointment of respondent no. 6. Allegations now raised about relationship or pre-service training are afterthoughts, not pleaded in the writ petition and cannot be considered in review. It is thus submitted that there is neither any error apparent on the face of the record nor any sufficient ground for review and that the application deserves dismissal as misconceived, barred by limitation and an abuse of process.

9. In the matter of S. Madhusudhan Reddy vs. V Arayana Reddy and Others reported in 2022 SCC OnLine SC 1034, Hon'ble Supreme Court has summarized the principles for exercising of review jurisdiction as under:

“24. After discussing a series of decisions on review jurisdiction in Kamlesh Verma v. Mayawati, this Court observed that review proceedings have to be strictly confined to the scope and ambit of Order XLVII Rule 1, CPC. As long as the point sought to be raised in the review application has already been dealt with and answered, parties are not entitled to challenge the impugned judgment only because an alternative view is possible. The principles for exercising review jurisdiction were succinctly summarized in the captioned case as below:

a. 20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

i. 20.1. When the review will be maintainable:

- 1. Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;*
- 2. Mistake or error apparent on the face of the record;*
- 3. Any other sufficient reason.*

ii. The words “any other sufficient reason” has been interpreted in Chajju Ram v. Neki, and approved by this Court in Moran Mar Basselios Catholicos 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.

iii. 20.2. *When the review will not be maintainable:*

1. *A repetition of old and overruled argument is not enough to reopen concluded adjudications. (ii) Minor mistakes of inconsequential import.*
2. *Review proceedings cannot be equated with the original hearing of the case.*
3. *Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*
4. *A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.*
5. *The mere possibility of two views on the subject cannot be a ground for review.*
6. *The error apparent on the face of the record should not be an error which has to be fished out and searched.*
7. *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.*
8. *Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.”*

10. Earlier also the Hon’ble Supreme Court in the matter of Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi reported in 1980 (2) SCC 167 had held as under:

“8. It is well-settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that 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: Sajjan Singh v. State of Rajasthan. For instance, if the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will review its judgment: G.L. Gupta v. D.N. Mehta. The Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice: O.N. Mohindroo v. Distt. Judge, Delhi. Power to review its judgments has been conferred on the Supreme Court

by Article 137 of the Constitution, and that power is subject to the provisions of any law made by Parliament or the rules made under Article 145. In a civil proceeding, an application for review is entertained only on a ground mentioned in Order 47 Rule 1 of the Code of Civil Procedure, and in a criminal proceeding on the ground of an error apparent on the face of the record (Order 40 Rule 1, Supreme Court Rules, 1966). But whatever the nature of the proceeding, it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case, and the finality of the judgment delivered by the Court will not be reconsidered except “where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility”: Sow Chandra Kante v. Sheikh Habib.”

11. The Supreme Court in *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma* as reported in (1979) 4 SCC 389 speaking through Chinnappa Reddy, J. has made the following pertinent observations:

"It is true there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found, it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct 20 all manner of errors committed by the subordinate court."

12. Having regard to the aforesaid fact, this Court finds that there is no dispute to the said proposition but for seeking review, petitioner is required to show error apparent on the face of record which he has failed in the present case. Therefore, as there is no apparent error on the face of the record, no ground for review is made. Hence, the review petition and connected applications are dismissed.

13. There shall be no order as to costs.

14. Urgent Photostat certified copies of this judgment, if applied for, be supplied to the parties upon fulfilment of all requisite formalities.

(RAJARSHI BHARADWAJ, J)

Kolkata

19.09.2025

PA (BS)