

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(ORIGINAL SIDE)**

Present:

The Hon'ble Justice Rai Chattopadhyay

RVWO 45 of 2024

in connection with

WPO 573 of 2019

IA No. GA/1/2024, GA/2/2024

Priyabrata Dasgupta

Vs.

The State of West Bengal and Ors.

For the Petitioner

: Mr. Sakti Pada Jana

: Ms. Sudipta Pramanik

For the State

: Mr. Sirsanya Bandopadhyay

: Ms. Tapati Samanta

Judgment on

: 07.11.2025

Rai Chattopadhyay, J. :-

- 1.** This is an application to seek review of this Court's order dated August 20, 2024, passed in writ petition No. WPO 573 of 2019. By dint of the said order the Court has dismissed the writ petition as above, as was filed by the review applicant/writ petitioner.
- 2.** The subject matter of the writ petition was related to the alleged illegal denial of approval of the applicant as a post graduate teacher, by the opposite party/respondent/District Inspector of Schools (Secondary Education) Kolkata, vide its order dated February 1, 2011, which he says he is entitled to, in view of G.O.NO. 670 S.E.(S)

dated September 4, 1998 and G.O. No. 1691 S.E.(S) dated September 20, 2001.

3. In spite of service of notice, no one has appeared to oppose the said application on behalf of the State. Hence, the matter is taken up for adjudication in absence of the State/Opposite Party.
4. Before taking up the review application as above, for consideration, it is necessary that the other application filed by the applicant, for condonation of delay of 55 days in filing the memorandum of review, be taken up and decided.
5. There is no apparent dispute as regards the prayer of the applicant as above. Having perused the grounds as mentioned in the said application and having found the same to be sufficient, the Court hereby condones the delay of 55 days in filing the present review application. Hence, GA No.1 of 2024 is allowed. The same is thus disposed of.
6. Mr. Jana, learned advocate for the applicant submits that the order of the Court as mentioned above suffers due to non-consideration of the relevant fact and erroneous application of law. He insists that the same may be reviewed on the ground that in case of a teacher in a D.A. getting school, like the one in which the applicant is serving, where the said applicant has not been appointed on the recommendation of the West Bengal School Service Commission, the statute namely the West Bengal Schools (Control of Expenditure) Act,

2005, as amended, particularly section 14 thereof, shall have no manner of application, though the Court has proceeded thereupon, which may be an improper application of law in case of the applicant/writ petitioner. That, since the Court has made the said provision of law applicable in case of the petitioner and ultimately turned down the petitioner's prayer in the writ petition, for grant of higher pay scale, the same has made the order of the Court amenable to its review jurisdiction.

- 7.** Mr. Jana learned advocate submits further by referring to the amended provision of section 2 of the Act of 2005 [amendment vide the West Bengal Schools (Control of Expenditure) (Amendment) Act 2016], that substitution of the word “pay”, in Explanation-I of sub-clause (ii) in clause (m) of section 2 thereof, instead and place of “basic pay”, would be applicable to the applicant/writ petitioner to render him to be eligible for grant of higher pay scale, who has been placed as against the permanent vacant post of a post graduate category retired teacher. He says that according to the staff pattern also, the petitioner would therefore, be eligible for such grant of higher pay scale.
- 8.** Mr. Jana, learned Advocate for the applicant/writ petitioner has relied on a decision of the Hon'ble Co-ordinate Bench of this Court in Radha Bhattad Vs. Rashmi Cement Limited reported in (2023) SCC OnLine Cal 2570 to buttress his argument as regards the scope and power of review of this Court.

9. Before discussing the scope, extent and power of this Court under the review jurisdiction, it is necessary that the relevant statutory provision, as referred to by the applicant may once be looked into. That is 'Explanation-I' of Section 2(m) of the West Bengal Schools (Control of Expenditure) Act, 2005, as follows :

"Explanation I. – "Aided with its grammatical variations, used with reference to a school, shall mean aided by the State Government in the shape of financial assistance towards the basic pay of the teachers and non-teaching staff of that school."

10. The amended provision is as written herein bellow:

"(2) in clause (m), in sub-clause (ii),-

(a) in Explanation I, for the words "basic pay", the word "pay" shall be substituted;"

11. The amendment expands the scope of the provision treating the entire pay and not only the basic pay as the components of financial assistance which renders a recognized non-government institution as an 'aided' school. This hardly has any bearing as to the pay scale allowable to a teacher, on the basis of his qualifications at the time of induction in service.
12. The scope of a review application in the context of a writ petition is limited and well defined by constitutional provisions and judicial precedents, primarily to prevent or correct errors apparent on the face of the record or to address specific legal errors, rather than to re-examine or reassess the merits of the original decision. Such a well

settled proposition of law is not required to be cited with reference, though a few may be mentioned, as in the case of **Kantaru Rajeevara Vs. Indian Young Lawyers Association** reported in **(2020) vol.9 SCC Pg.121**, where it has been held that the power of review is constitutionally rooted in Articles 137 and 145 of the Constitution, with specific procedural limitations imposed by Order XLVII, Rule 1 of the Civil Procedure Code; that judicial review is confined to correcting errors of law or procedural irregularities, not to reappraise factual findings or substitute the other opinion for that of the original decision; the Court emphasizes that review is not an opportunity for re-litigation or for the correction of errors based on new facts or different interpretations of facts.

13. In **M.M. Thomas Vs. State of Kerala** reported in **(2000) Vol. 1 SCC page 666**, the Supreme Court has come to the view that the High Court is a Court of records as envisaged under Article 215 of the Constitution and, therefore, as inherent power to correct the record; that it is only proper that the plenary powers of the High Court would include the power of review relating to errors apparent on the face of records.

14. Similar proposition of law has been upheld in **Sanjay Kumar Agarwal Vs. State Tax Officer** reported **at (2024) 2 SCC 362** And **Arun Dev Upadhyaya Vs. Integrated Sales Service Ltd.** reported **at (2023) 8 SCC 11**, by the Supreme Court. A judgment is open to review *inter alia* if there is a mistake or an error apparent on the face

of the record; 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; 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; in exercise of the jurisdiction under Order 47 Rule 1CPC, it is not permissible for an erroneous decision to be "reheard and corrected; a review petition has a limited purpose and cannot be allowed to be an "appeal in disguise"; under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided. From the above, it is evident that a power to review cannot be exercised as an appellate power and has to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. 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.

15. So far as the judgment referred to by the applicant in ***Radha Bhattad's case (Supra)***, it is found that the same is not applicable in so far as the same deals with the apparent error on the face of the record of the Court and not any error based on the fact of the case and with regard to application of law as emphasized by the applicant in the instant review petition.

- 16.** In the instant review application, the applicants endeavour is only that, to insist and draw the Court to re-apprise the fact of the case again and decide again whether its earlier decision has been right or not. According to the applicant the earlier decision of the Court dated August 20, 2024 has to be substituted in view of non-consideration of the relevant law, whereas any such overlap is merely inconspicuous, as discussed above.
- 17.** For the reasons as discussed above, the Court finds no merits in the grounds pleaded by the review applicant, in RVWO 45 of 2025.
- 18.** The said review application No. **RVWO 45 of 2025** is dismissed.
- 19.** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)