

RA-CW-339-2024 in -1-
CWP-2936-2017 & connected review petitions

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101 (05 cases) RA-CW-339-2024 in CWP-2936-2017
Date of Decision :10.01.2025

O.P. Kathuria and others ...Petitioners

Versus

State of Haryana and othersRespondents

RA-CW-464-2024 in CWP-19325-2015

S.K. Mathur and others ...Petitioners

Versus

State of Haryana and othersRespondents

RA-CW-463-2024 in CWP-23591-2015

Rajan Guglani and others ...Petitioners

Versus

State of Haryana and othersRespondents

RA-CW-427-2024 in CWP-10646-2023

K.L. Bhayana and others ...Petitioners

Versus

State of Haryana and othersRespondents

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RA-CW-431-2024 in CWP-5195-2016

S.C. Sikka and another

...Petitioners

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Karan Nehra, Advocate for the review-applicant(s)
in RA-CW-339-2014, RA-CW-464-2024, RA-CW-463-2024 &
RA-CW-427-2024.

Mr. Kulbir Narwal, Advocate for the review-applicant
in RA-CW-339-2024.

Mr. Sanjeev Kaushik, Addl. A.G. Haryana with
Mr. Divyanshu Kaushik Advocate,
Ms. Simran Sharma, Advocate & Ms. Manreet Kaur, Advocates
for the respondents.

* * *

Harsimran Singh Sethi, J.

1. Present review petitions have been filed for the review of the judgment dated 19.07.2024 passed by the Full Bench of this Court.
2. Learned counsel for the review-applicant submits that though, he has no grievance with regard to the judgment dated 19.07.2024 passed by the Full Bench of this Court, qua the setting aside Rule 8(3) of the Haryana Civil Services (Revised Pension) Part-II Rules, 2009 (hereinafter referred to as Part-II Rules, 2009) however, the only difficulty found is that no direction has been given to the respondents in the said judgment to consider the claim of the petitioners for grant the same, who have now become



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review Court cannot sit in appeal over its own decision. Reliance can be placed upon the judgment of Hon'ble Supreme Court of India in **Civil Appeal Nos.1167-1170 of 2023 titled as S. Murali Sundaram vs. Jothibai Kannan and others decided on 24.02.2023.** Relevant paragraph of the said judgment is as under:-

5.1 While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with [Section 114](#) CPC are required to be referred to? In the case of [Perry Kansagra](#) (supra) this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with [Section 114](#) CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under [Order 47 Rule 1 CPC](#) this Court had summed upon as under:“

- (i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of [Order 47 Rule 1 CPC](#).
- (ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any longdrawn process of reasoning on the points where there may conceivably be two opinions.
- (iii) Power of review may not be exercised on the ground that the



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decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit.”

10. Further, the Hon’ble Supreme Court of India in **Aribam Tuleshwar Sharma vs. Aribam Prishak Sharma, (1979) 4 SCC 389** has been held that it is only on discovery of new and important matter 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 order was made, the remedy of review may be exercised however, a review petition cannot be filed on the ground that decision was erroneous on merits as the same will be province of a Court of appeal. Relevant paragraph of the judgment is as under:-

3. The Judicial Commissioner gave two reasons for reviewing his predecessor's order. The first was that his predecessor had overlooked two important documents Exs. A-1 and A-3 which showed that the respondents were in possession of the sites even in the year 1948-49 and that the grants must have been made even by then. The second was that there was a patent illegality in permitting the appellant to question, in a single writ petition, settlement made in favour of different respondents. We are afraid that neither of the reasons mentioned by the learned Judicial Commissioner constitutes a ground for review. It is true as observed by this Court in [Shivdeo Singh v. State of Punjab](#) [AIR 1963 SC 1909] there is nothing



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in [Article 226](#) of the Constitution to preclude a 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 powers which may enable an appellate court to correct all manner of errors committed by the subordinate court."

11. While deciding the same issue of review, the Hon'ble Supreme Court of India in *Parison Devi vs. Sumitri Devi (1997) 8 SCC 715* held that 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 the record justifying the exercise of power of review. Hon'ble Supreme Court of India held that review petition cannot be filed for an erroneous decision to be reheard and corrected and the said review petition cannot be an appeal in disguise. Relevant paragraph of the judgment is as under:-

9. Under [Order 47 Rule 1 CPC](#) a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident 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 the record justifying the court to exercise its power



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of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".

12. The said decision has already been followed by this Court in

Paramjit Singh through LRs vs. Gurdial Singh and others, 2022 SCC

Online P&H 1637. Relevant paragraph of the judgment is as under:-

"The counsel has further in his arguments sought to raise the points of self-contradictions self contradictions and self self-defeating stands and which could not be taken into consideration in a review application and and it is well settled law as has sought to be relied upon by counsel for the respondent who has cited the judgments titled as 'Sasi (D) Through Lrs. v. Aravindakshan Nair' (2017) 2 RCR (Civil) 363 and 'Parsion Devi v. Sumitri Devi' (1997) 4 RCR (Civil) 458 458;; where the Apex Court has laid down that a review cannot be allowed to be disguised as an appeal for getting an erroneous decision reheard and corrected and has to be used within the ambit of Order 47 Rule 1 CPC to rectify any error patent on the records instead of assailing the orders on the appeals by this Court before the next Court the instant review has come about for a motivated cause. Since, this Court cannot come across any mistake or an error apparent on the records which could be self evident and any such interpretation that is sought to be put forth by the counsel for the applicant by process of reasoning cannot be considered at this juncture."

13. Recently Hon'ble Supreme Court of India in **Shri Ram Sahu**

(Dead) through Legal Representatives and others vs. Vinod Kumar

Rawat and others (2021) 13 SCC 1, held as under:-

"6. The limitations on exercise of the power of review are well settled. The first and foremost requirement of entertaining a review petition is that the order, review of which is sought, suffers from any error apparent on the face of the order and permitting the order to stand will lead to failure of justice. In the absence of any such error, finality attached to the judgment/order cannot be disturbed."

9. The power of review can also be exercised by the court in the event discovery of new and important matter or evidence takes place which despite exercise of due diligence was not within the knowledge of the applicant or could not be produced by him



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at the time when the order was made. An application for review would also lie if the order has been passed on account of some mistake. Furthermore, an application for review shall also lie for any other sufficient sufficient reason.

10. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. It is also trite that pronounced, exercise of inherent jurisdiction is not invoked for reviewing any order.

11. Review is not appeal in disguise. In Lily Thomas v. Union of India [Lily Thomas v. Union of India, (2000) 6 SCC 224 :2000 SCC (Cri) 1056] this Court held : (SCC p. 251, para 56) '56. It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise.' "

8. The dictionary meaning of the word "review" is "the act of looking, offer something again with a view to correction or improvement". It cannot be denied that the review is i the creation of a statute. In v. Pradyumansinghji Arjunsinghji, (1971) 3 SCC 844] , this Court has held that the power of review is not an inherent power. It must be conferre conferredd by law either specifically or by necessary implication. The review is also not an appeal in disguise. [Patel Narshi Thakershi v. Pradyumansinghji Arjunsinghji](#) [[Patel Narshi Thakershi](#)

9. What can be said to be an error apparent on the face of the proceedings has been dealt with and considered by this Court in v. T. Nagappa, AIR 1954 SC 440] . It is held that such an error is an error which is a patent error and not a mere wrong decisi [T.C. Basappa v. T. Nagappa](#) [[T.C. Basappa](#)on. In [Hari Vishnu Kamath v. Syed Ahmad Ishaque](#) [[Hari Vishnu Kamath v. Syed Ahmad Ishaque](#), (1955) 1 SCR 110 11044 : AIR 1955 SC 233] , it is observed as under : (SCC p. 244, para 23)."

14. Keeping in view the settled principles of law noticed hereinbefore, the review petitions which have been filed by the applicants are only to re-argue the case so as to contend that the findings recorded by the Court are not correct, hence the review petitions are not maintainable and are liable to be rejected.

15. Learned counsel for the review-applicants submits that certain arguments raised in the writ petitions, have not been dealt with and there were other prayers as well in the writ petitions, which require adjudication.

16. It may be noticed that the question of law requires

