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11.05.2026
Ct. No. 11
KCP

RVW 216 of 2024
+
IA No.CAN 1 of 2024
(Shyamal Kumar Hira Vs. The Union of India & Ors.)
in
WPCT 299 of 2009

Mr. Tulsidas Ray,
Ms. Pranita Mandal,
Mr. Rabindra Kumar Pathak.
..... For the review applicant

Mr. Moti Sagar Tiwari,
Ms. Debjani Ghosal
..... For the respondents

Aggrieved by the order dated 6th May, 2024 passed in the writ petition being WPCT 299 of 2009, the writ petitioner/review applicant has preferred the present review application being RVW 216 of 2024 along with an application for appropriate order being CAN 1 of 2024.

Records reveal that pursuant to our earlier direction, the parties have already exchanged their affidavits in the application for appropriate order being CAN 1 of 2024.

Mr. Ray, learned advocate appearing for the review applicant argues that there is an error apparent on the face of the record inasmuch as, the order impugned was passed being oblivious of the fact that the applicant was initially called for participation in a suitability test for the post of Head Clerk by a letter dated 2nd April, 1994, but illegally the said call letter was not given effect to. Had the applicant being allowed to appear in the said

suitability test, he would have availed promotion to the post of Head Clerk on and from 15th July, 1994.

He further argues that the Court did not take into consideration the fact that the applicant's position in the gradation list published *vide* memo dated 10th November, 2003 was illegally downgraded by a subsequent memo dated 9th March, 2004. Though such down-gradation was brought to the notice of the authorities, no steps were taken. The Court glossed over the said issue and did not return any finding on the same. Such infirmity warrants interference in review.

Mr. Ray contends that in spite of arriving at a finding that repeated mistakes have been committed by the authorities to undermine the morale of an employee, the original application was abruptly dismissed by the learned Tribunal primarily on the ground of delay though the illegalities were brought to the notice of the competent authority contemporaneously.

Mr. Tiwari, learned advocate appearing for the respondents denies and disputes the contention of Mr. Ray and submits that it is not a case that even after exercise of due diligence, relevant documents could not be brought to the notice of the Court by the applicant at the time of hearing.

He further argues that there is no patent error apparent on the face of the records and the parameters prescribed for review do not postulate a rehearing of the

dispute because a party has not highlighted all the aspects of the case.

Records would reveal that the original application was filed by the applicant praying for issuance of necessary direction upon the respondents to fix the date of promotion of the applicant in the post of Head Clerk with effect from 15th July, 1994. The applicant was mistakenly called for the suitability test of 1994, but such error was immediately rectified. The allegations pertaining to the said suitability test of 1994 were sought to be urged by filing an original application in the year 2005. The documents upon which reliance has been placed on behalf of the applicant were considered by the learned Tribunal and also by this Court in the writ petition. It is not a case that in spite of due diligence, the applicant could not produce all relevant documents. Matters which ought to have been urged at the time of hearing of the writ petition, have been sought to be agitated afresh and as such, the argument of Mr. Ray that the writ petitioner needs to be reheard upon review, is not acceptable to this Court, moreso when review proceedings are not by way of appeal.

The arguments advanced by Mr. Ray and the grounds taken in the review application do not establish any error whatsoever on the face of the record nor the application for review has been preferred upon discovery of a new and important matter or evidence.

For the reasons discussed above, no interference is called for. The review application being RVW 216 of 2024 and the connected application being CAN 1 of 2024 are, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)