



2025:CGHC:3238

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Reserved for orders on : 17.01.2025

Order passed on 27.03.2025

REVP No. 97 of 2024

- 1** - Hiralal Kashyap S/o Bharatlal Kashyap Aged About 62 Years Presently Posted As Assistant Teacher At Primary School Bandhabra Block Bamhanidih District Janjgir-Champa (C.G.)
- 2** - Laxmi Prasad Dewangan S/o Phool Chand Dewangan Aged About 61 Years Presently Posted As Head Master At Middle School Birra, Block Bamhanidih District Janjgir-Champa (C.G.)
- 3** - Sukhnanda Singh Kaushik S/o Chunni Singh Kaushik Aged About 60 Years Presently Head Master At Middle School, Semra, Block Nawangarh, District Janjgir-Champa (C.G.)
- 4** - Ganpat Lal Jaltarey S/o Mangal Ram Jaltarey Aged About 54 Years Presently Posted As Assistant Teacher At Primary School, Semhra Block Nawangarh, District Janjgir-Champa (C.G.)
- 5** - Dev Kumar Dewangan S/o Dwis Ram Dewangan Aged About 61 Years Presently As Upper Division Teacher At Girls Middle School Pondidalha, Block Akaltara, District Janjgir-Champa, Chhattisgarh
- 6** - Makardhwaj Patel S/o Jalindhar Siphgh Patel Aged About 61 Years Presently As Assistant Teacher At Primary School Komo, Block Dabhra, District Janjgir-Champa (Now - Sakti), Chhattisgarh
- 7** - Jiwan Lal Patel S/o Parmanand Patel Aged About 61 Years Presently As Assistant Teacher At Primary School Khaiyapara Faraswani, Block-Dabhra, District Janjgir-Champa (Now-Sakti) (C.G.)
- 8** - Banshi Lal Patel S/o Mohit Ram Patel Aged About 60 Years Presently As Assistant Teacher At Middle School Sapnaypali, Block Dabhra, District Janjgir-Champa (Now Sakti), (C.G.)
- 9** - Malik Ram Sidar S/o Hetram Sidar Aged About 61 Years Head Master At Primary School Darimuda, Block Malkharoda, District Janjgir-Champa (Now Sakt), Chhattisgarh
- 10** - Sahash Ram Dewangan S/o Sunder Lal Dewangan Aged About 64 Years R/o Ward No. 13, Shukulpara Pamgarh District Janjgir-Champa, Chhattisgarh
- 11** - Ghanshyam Prasad Sahu S/o Banshi Lal Sahu Aged About 67 Years R/o Village Loharshi Pamgarh, District Janjgir-Champa, Chhattisgarh

... Petitioner(s)

versus

- 1** - State Of Chhattisgarh Through The Secretary, Department Of School

Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur (C.G.)

2 - Director Public Instruction, Raipur, District Raipur, Chhattisgarh

3 - District Education Officer Janjgir, District Janjgir-Champa, Chhattisgarh

4 - Joint Director Public Instruction, Raipur, District Raipur, Chhattisgarh

5 - Deputy Director, Education, District Janjgir-Champa, Chhattisgarh

6 - Rohit Kumar Chaturvedi S/o Amarnath Chaturvedi Aged About 45 Years Service Working On The Post Of Assistant Teacher At Primary School, Dhaneli, Vikash Khand Nawagarh, Vikash Khand Nawagarh District Janjgir-Champa, Chhattisgarh

7 - Ramadhar Tagore, (Dead) Through Lrs.

7.1 - (A) Smt. Dilbai Wd/o Late Shri Ramadhar Tagore Aged About 50 Years R/o Sajapali Block Akaltara, District Janjgir-Champa (C.G.)

7.2 - (B) Amarnath Tagore S/o Ramadhar Tagore R/o Sajapali Block Akaltara, District Janjgir-Champa (C.G.)

8 - Jagdish Prasad Sidar S/o Nathram Sidar Aged About 50 Years Occupation - Service, Working On The Post Of Upper Division Teacher At Middle School Amgaon, Viaksh Khand Jaijaipur, District Janjgir-Champa, Chhattisgarh

9 - Darsu Ram Sidar S/o Phadal Ram Aged About 46 Years Occupation - Service, Working On The Post Of Assistant Teacher At Primary School Kadari, Vikash Khand Bamhnidih, District Janjgir-Champa, Chhattisgarh

10 - Ram Prasad Chandra S/o Sadh Ram Chandra Aged About 45 Years Occupation - Service, Working On The Post Of Assistant Teacher Primary School Pathri, Vikash Khand Nawagarh, District Janjgir-Champa, Chhattisgarh

... Respondent(s)

For Petitioners : Mr. Mateen Siddiqui, Advocate

For State : Ms. Mukta Tripathi, Panel Lawyer

(Hon'ble Shri Parth Prateem Sahu, Judge)

CAV Order

1. Petitioner has filed this review petition seeking review of the order dated 05.08.2013 passed in W.P.(S.) No. 7193 of 2008 and batch of writ petitions whereby this Court has dismissed writ petitions.
2. Learned counsel for petitioners submits that while disposing of writ petitions, Court considered status of petitioner therein to be reappointed employees instead of regularized employees,

because State Administrative Tribunal in original application No. 1070 / 1997 which was disposed of with an observation that petitioners are to be treated as employees to be regularized along with others. It is contention of learned counsel for petitioners that this Court while disposing of writ petitions have escaped consideration the order of State Administrative Tribunal for treating petitioners to be employees who are eligible for being regularized and considered case of petitioners to be one of the reappointed employees and had rejected claim for seniority from the date of initial appointment. He also submits that against the order passed in writ petitions, writ appeal was filed which came to be dismissed and in the S.L.P. filed challenging the order in writ appeal, considering submission made, Hon'ble Supreme Court permitted petitioners therein to withdrawn petition and to file review and accordingly, review was initially filed against the order passed in writ appeal, however, Division Bench considering that error apparent, if any, would be in the order passed in writ petition, accordingly, review petition was disposed of reserving liberty with the petitioners to file review against order passed in writ petitions and accordingly, this review petition is filed.

3. Learned State counsel opposed the submission made by learned counsel for petitioner and would submit that no ground is made out for the review as in the order passed in writ petitions dated 05.08.2013 which is subject matter of review, this Court has considered in detail as to why seniority to petitioners from initial

date of appointment cannot be granted and they have been held to be entitled to seniority from the date of appointment. There is no error on the fact of record and hence, review petition be dismissed.

4. I have heard learned counsel for the respective parties and also perused documents placed on record.
5. From the submission made by learned counsel for petitioners, it is appearing that petitioners, who were initially appointed vide order dated 13.09.1983, however, their appointment was cancelled from 1984 to 1997. Petitioners have filed original application bearing No. 1070 / 1997 and perusal of order dated 22.03.1997 in the original application would show that, original application was disposed of observing that if present petitioners are similarly situated employees, they be considered similarly and if petitioners fall in the category of those employees who are eligible for being regularized along with others, their cases be considered. After passing of the order dated 22.03.1997, order of appointment were issued in favour of petitioners on 16.03.1998. Order of appointment clearly mentions reappointment. It does not mention regularization of employee named therein. Order of reappointment was not put to challenge at any point of time, hence, order of reappointment of petitioners still stand as on date also.
6. In writ petitions, petitioners claimed only with respect to grant of

seniority from the date of initial appointment. This Court, while considering and dismissing writ petition, observed thus :

“8. Having heard learned counsel appearing for the parties, perused the pleadings and documents appended thereto, the contention of the petitioners that since they were regularized after a gap by the order dated 30.12.97, 16.03.98, 01.04.98, 28.05.98, 13.08.98 and 10.09.98 respectively, pursuant to the order passed by the Tribunal, they are entitled to continuity in service as the order of removal, which is not annexed herewith was set aside. However, the counsel for the petitioners has failed to point out from any order where the removal order before the Tribunal was quashed.

9. The petitions were disposed having regard to the facts situation of the case and also on the basis of the case in order to grant some benefits to the petitioners. In that situation, the petitioners are not entitled to either seniority from the date of first appointment and also other consequential benefits on the basis that the Tribunal had directed to consider regularization of the applicants filed before the Tribunal.

10. Law is well settled that if a person is appointed against the vacant post even on ad hoc basis and continues in the same capacity till he is regularized either through proper selection or otherwise, the employee is entitled to continuity in service. However, in case on hand, there was no continuity in service and also the order of removal was not quashed. \Only by way of alternative relief, the applications were disposed of and the

State had also passed a fresh order of appointment on a pay scale not on the fixed pay. The petitioners are entitled to seniority from the date of appointment, as per provisions of law. Thus, there is no merit in the case.”

7. In paragraph 10 of the order passed in writ petitions, this Court while rejecting claim of petitioners has observed that there was no continuity in service and also order of removal was not quashed. This portion of the order was not disputed by learned counsel for petitioners. From the contents of paragraph 8 and 10, it is apparent that submission made by learned counsel for petitioners therein with respect to claim of regularization of other employees and observation made by Tribunal in original application No. 1070 / 1997 was considered and thereafter, writ petition was dismissed.
8. The scope of review under Order 47 of C.P.C. is very limited. Powers under the review jurisdiction can be exercised only when the Court finds that there is an error apparent on the face of record / order. Every factual and legal error in the order is not to be corrected in review, however, it will be subject matter of appeal
9. Hon'ble Supreme Court in the case of **Parsion Devi and Ors. Vs. Sumitri Devi & Ors.** reported in (1997) 8 SCC 715 has held as under:-

“10..... There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected

by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. While passing the impugned order, Sharma, J. found the order in Civil Revision dated 25.4.1989 as an erroneous decision, though without saying so in so many words. Indeed, while passing the impugned order Sharma, J. did record that there was a mistake or an error apparent on the face of the record which was not of such a nature, "which had to be detected by a long drawn process of reasons" and proceeded to set at naught the order of Gupta, J.."

10. In the case of **Surendra Kumar Vakil & Ors. Vs. Chief Executive Officer, MP and Ors.**, reported in **(2004) 10 SCC 126**, Hon'ble Supreme Court has held thus:-

"10.....A point that has been heard and decided cannot form a ground for review even if assuming that the view taken in the judgment under review is erroneous."

11. In the case of **Asharfi Devi (dead) through LRs Vs. State of Uttar Pradesh and Ors.** reported in (2019) 5 SCC 86, it was held thus:

"18. It is a settled law that every error whether factual or legal cannot be made subject matter of review under Order 47 Rule 1 of the Code though it can be made subject matter of appeal arising out of such order. In other words, in order to attract the provisions of Order 47 Rule 1 of the Code, the error/mistake must be apparent on the face of the record of the case."

12. In the case of **Shanti Conductors Pvt. Ltd. Vs. Assam State Electricity Board & Ors.** reported in (2020) 2 SCC 677, it was held:-

"25. The scope of review has been reiterated by this Court from time to time. It is sufficient to refer the judgment of this Court in Parsion Devi and Others Vs. Sumitri Devi and

Others, (1997) 8 SCC 715, wherein in paragraph 9 following has been laid down:

“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 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 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”.”

13. In view of aforementioned facts of the case and the law annunciated by Hon. Supreme Court as discussed above, I do not find any error apparent on the face of record.
14. Accordingly, review petition being *sans merit* is liable to be dismissed and is hereby dismissed.

Digitally
signed
by
SHAYNA
KADRI

Shayna

Sd/-
(Parth Prateem Sahu)
Judge