

(2023) 04 CHH CK 0018
In the Chhattisgarh High Court
Case No : REVP No. 46 Of 2023

Brijesh Pandey

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 10-04-2023

Acts Referred:

Code Of Civil Procedure, 1908 — Order 47 Rule 1

Citation : (2023) 04 CHH CK 0018

Hon'ble Judges : Goutam Bhaduri, J;N.K. Chandravanshi, J

Bench : Division Bench

Advocate : Ashutosh Mishra, Meena Shastri

Final Decision : Dismissed

Judgement

1. The review of the order date 13-3-2023 has been sought for, which is passed in WA No.103 of 2023. Para 6 of the said order reads as under :

6) Having considered the submission made by learned counsel for the parties particularly learned counsel for the appellant, without entering into the merits of the case, we direct that the appellant shall be at liberty to make a representation before the concerned authority/ State Government for redressal of his grievance within a period of 30 days and thereafter the competent authority of the State shall consider and decide the same on its own merit in accordance with law within a period of 60 days. It is made clear that this Court has not expressed any opinion on the merits of the case, which would be considered by the competent authority/State Government on its own merit.

2. Learned counsel for the petitioner would submit that the case of the petitioner is not a case of transfer on deputation but it is a case of appointment of deputation, therefore, a right is created in favour of the petitioner with regard to the deputed post and an opportunity of hearing was to be given to the petitioner.

3. We have heard learned counsel for the parties; perused the case file of the writ appeal and the documents attached with this petition. It appears that the

petitioner by presentation of this review petition seeks an opportunity to argue the entire case afresh on merits under the garb of the review petition, which is not permissible and tenable in law.

4. It is well settled principle of law that under the garb of review petition, the petitioner should not be permitted to argue the entire case afresh, which would amount to convert the review petition into an appeal and the same is not sustainable in law.

5. The Supreme Court in the judgment dated 03.11.2020 in Civil Appeal No. 3601 of 2020 in case of Shri Ram Sahu (Dead) Through LRs V. Vinod Kumar Rawat and Ors, had laid down that the judgment should be open to review, inter alia, if there is a mistake 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. However, held that in exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be 'reheard and corrected'. It is further held that 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 later only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be 'an appeal in disguise'.

6. Applying the aforesaid principle and considering the reasons assigned in the application for review, we are not inclined to entertain this petition.

7. In the result, the review petition is dismissed.