
(2019) 05 UK CK 0254

In the Uttarakhand High Court

Case No : Review Application No. 1485 Of 2018 In Writ Petition (S/B) No. 189 Of 2019

Dr. Sangeeta Singh

APPELLANT

Vs

Gurukul Kangri University Haridwar And Others

RESPONDENT

Date of Decision : 24-05-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Order 47 Rule 1

Citation : (2019) 05 UK CK 0254

Hon'ble Judges : Ramesh Ranganathan, CJ; Manoj Kumar Tiwari, J

Bench : Division Bench

Advocate : Tapan Singh, Arvind Vashistha, Imran Ali Khan, Vikas Pande

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. This application is filed by the petitioner in Writ Petition (S/B) No. 189 of 2016 seeking review of the order passed by a Division Bench of this Court on 23.10.2018.

2. In the order under review, the Division Bench noted that the review petitioner was seeking promotion to the post of Professor w.e.f. 01.09.2006; she was appointed as a Professor under the Career Advancement Scheme on 02.02.2015; she was given the pay scale of Rs. 37400-67000 + AGP of Rs. 10,000/- on the basis of the recommendations made by the Sixth Pay Commission; she had not shown any Regulation framed by the respondent-University, or by the UGC, on the basis of which she was seeking promotion w.e.f. 01.09.2006; judicial notice could be taken of the fact that a teacher is required to put in the requisite years of service before he/she is considered for the purpose of the Career Advancement Scheme; the purpose of granting benefit, under the Career Advancement Scheme, was to remove stagnation; and since the petitioner was appointed only in the year 2005, she could not be promoted in the year 2006.

The writ petition was, accordingly, dismissed. Aggrieved thereby, the present review application.

3. Mr. Tapan Singh, learned counsel for the review petitioner, would draw our attention to the proceedings dated 02.02.2015, which refers to the earlier proceedings dated 07.12.2013, to contend that both these proceedings would show that the petitioner is entitled to be paid the pay-scales applicable to the post of Professor w.e.f. 01.09.2006.

4. As the proceedings dated 07.12.2013 did not form part of the record, we had called upon the respondents to produce a copy thereof. A copy of the resolution of the Selection Committee dated 07.12.2013 is now placed before us. The said proceedings show that the review petitioner was placed in the pay-scale of a Professor of Rs. 16400-22400 which was revised to Rs. 37400-67000 with A.G.P. of Rs.10,000/- from 01.09.2006. Reference to "01.09.2006", in the Resolution dated 07.12.2013, is to the date from which the revised pay-scales came into force. The review petitioner, who was appointed as a Reader on 11.11.2005, was promoted as a Professor by the Selection Committee in its meeting held on 07.12.2013. All that the Resolution dated 07.12.2013 states is that, on promotion as a Professor, the review petitioner would be entitled to the revised pay-scales applicable to the post of Professor (the pay-scales revised on 01.09.2006).

5. It is not in dispute that the review petitioner was appointed as a Reader in the respondent-University on 11.11.2005. If the review petitioner's claim, to be given the pay-scale of a Professor from 01.09.2006, were to be accepted, it would mean that she must be held to have been promoted as a Professor, and given the pay-scale of a Professor w.e.f. 01.09.2006, less than a year after she was appointed as a Reader. It does not stand to reason that, while actually promoting the petitioner as a Professor by Resolution dated 07.12.2013 (i.e. eight years after she was appointed as a Reader), the Selection Committee should decide to give her the benefit of the pay-scales of a Professor from a period more than seven year prior thereto w.e.f. 01.09.2006.

6. Mr. Tapan Singh, learned counsel for the review petitioner, would submit that the petitioner's past service as a Reader in another Institution was taken into consideration in conferring on her such a benefit. There is no material placed on record to show that the respondent-University had taken into account her past service in another institution.

7. The scope of interference in review jurisdiction is extremely limited. It is only if the order under review suffers from an error apparent on the face of the record would interference be justified. In review proceedings the contentions, urged on merits, are, ordinarily, not examined as these are all matters within the purview of an appellate Courts. There are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of a 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 the appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court. [Aribam Tuleswar Sharma v. Aribam Pishak Sharma and others : AIR 1979 SC 1047; Shivdeo Singh and others vs. State of Punjab and other : AIR 1963 SC 1909; Smt. Meera Bhanja vs. Smt. Nirmala Kumari Choudhury : AIR 1995 SC 455]. Review proceedings are not by way of an appeal, and should be strictly confined to the scope and ambit of Order 47 Rule 1 C.P.C. (Smt. Meera Bhanja vs. Smt. Nirmala Kumari Choudhury : AIR 1995 SC 455).

8. A party is not entitled to seek review of a judgment merely for the purpose of a rehearing and a fresh decision of the case. [Sajjan Singh vs. State of Rajasthan : AIR 1965 SC 845; M/s Northern India Caterers (India) Ltd. vs. Lt. Governor of Delhi : (1980) 2 SCC 167]. A review proceeding cannot be equated with the original hearing of the case, and the finality of the judgment delivered by the Court will not be reconsidered except "where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility." [Sow Chandra Kante & another vs. Sheikh Habib : (1975) 1 SCC 674; M/s Northern India Caterers (India) Ltd. vs. Lt. Governor of Delhi : (1980) 2 SCC 167].

9. We find no such infirmity in the order, review of which is sought. The review application fails and is, accordingly, dismissed. No costs.