
(2026) 08 OHC CK 1545
In the Orissa High Court, Cuttack Bench
Case No : RVWPET No.116 of 2026

Prasanna Kumar Gawn & Ors.

APPELLANT

Vs

State of Odisha & Ors.

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

CPC — Section 114, Order 47, Rule 1, 47 Rule 1

Citation : (2026) 08 OHC CK 1545

Hon'ble Judges : Harish Tandon, C.J;Chittaranjan Dash, J

Bench : Division Bench

Advocate : Mr. D.R. Mohapatra, Mr. S. Rath

Final Decision : Dismissed

Judgement

Chittaranjan Dash, J.

1. By means of these applications, the Petitioners, namely, Prasanna Kumar Gawn and others in RVWPET No.116 of 2026 and Pabitra Kumar Rout and others in RVWPET No.119 of 2026, seek review of the common judgment dated 12.02.2026 passed by this Court in W.P.(C) Nos.22139 and 22141 of 2010, whereby the writ petitions were partly allowed by extending notional service benefits to the Petitioners from their respective dates of initial entry into service, while denying them financial benefits for the said period. Since both the Review Petitions arise out of the aforesaid common judgment and involve an identical issue, they were heard together and are being disposed of by this common judgment.

2. The Petitioners were appointed as Junior Assistants pursuant to the selection process undertaken by the Orissa Staff Selection Commission against the advertisement dated 26.06.1998. Their appointments, however, were made on a consolidated remuneration of Rs.4,000/- per month instead of the regular scale of pay. Aggrieved thereby, the Petitioners approached the Orissa Administrative Tribunal, which, by common order dated 26.03.2009, directed extension of

service benefits to them, while denying arrears. The matter was thereafter carried before this Court in W.P.(C) Nos.22139 and 22141 of 2010. By the judgment dated 12.02.2026, this Court partly allowed the writ petitions and extended notional service benefits to the Petitioners from their respective dates of initial entry into service, while denying financial benefits for the said period.

3. Mr. Mohapatra, learned counsel appearing for the Petitioners, in both the Review Petitions, contended that once this Court had found the action of the State Authorities to be arbitrary and unjustified and had extended notional service benefits from the dates of initial entry into service, denial of the corresponding financial benefits was legally unsustainable. It was argued that the Petitioners had entered service pursuant to a valid selection process and had been wrongfully deprived of the regular scale of pay. Relying upon the principles of restitution and the decisions cited in the Review Petitions, learned counsel submitted that the Petitioners were entitled to consequential monetary benefits, including arrears of salary.

4. Learned Additional Government Advocate, on the other hand, opposed the Review Petitions and submitted that no error apparent on the face of the record was made out warranting exercise of review jurisdiction. According to him, this Court, after considering the circumstances of the case and the passage of time, had consciously balanced the equities and restricted the relief to notional service benefits without imposing any financial liability upon the State. It was, therefore, contended that the Petitioners were, in substance, seeking a rehearing of the matter, which is impermissible in exercise of review jurisdiction.

5. Before examining the grounds urged in the present Review Petitions, it would be apposite to notice what weighed with this Court while disposing of the writ petitions. The Tribunal had found that the Petitioners had entered service pursuant to a selection process undertaken by the Orissa Staff Selection Commission against duly advertised vacancies, but had been appointed on a consolidated remuneration of Rs.4,000/- per month instead of the regular scale of pay. The writ Court, upon examining the matter, found no justification for such action of the authorities and observed that the Petitioners, having been selected through a public recruitment process, had a reasonable expectation of appointment on the terms contemplated under the advertisement. The action of the authorities in denying them the regular scale of pay in the guise of an austerity measure was accordingly found to be arbitrary.

Having arrived at the aforesaid conclusion, the judgment under review further noticed that considerable time had elapsed and that equities were required to be worked out. It was in that context that, while holding the Petitioners entitled to the benefit of service from their respective dates of initial entry, the judgment under review confined the relief to notional service benefits, specifically excluding financial benefits for the said period. Seniority and counting of service were, however, directed to follow.

6. A perusal of the judgment under review would reveal that the exclusion of financial benefits was neither inadvertent nor an omission requiring correction. Having found the action of the authorities to be unjustified, the judgment under review nevertheless took note of the fact that several years had elapsed and that equities were required to be worked out in favour of the State as well. It was in that backdrop that the relief was consciously moulded by extending notional service benefits from the respective dates of initial entry into service, while excluding financial benefits for the said period. The judgment further clarified that, except for financial benefits, the Petitioners would be entitled to all other benefits, including seniority and counting of service.

7. What the Petitioners seek, in substance, is reconsideration of the manner in which the relief was moulded in the judgment under review. Such reconsideration would necessarily require the Court to revisit the circumstances in which the relief was granted and to substitute the conclusion already arrived at with another view as to the extent of consequential benefits. That exercise falls outside the permissible bounds of review jurisdiction.

8. Before adverting to the grounds urged in the present Review Petitions, it would be apposite to notice the principles governing the exercise of review jurisdiction, as reiterated by the Hon'ble Supreme Court in ***Malleeswari v. K. Suguna and Anr.***, reported in **2025 SCC OnLine SC 1927**. The observations made by the Hon'ble Supreme Court, relevant for the present purpose, are extracted hereinbelow:

"14. In summing up precedents on the point, the judgment may not be understood as though we are putting an old spin on a classic. The court notes that there is no infirmity or illegality in entertaining the review petition; however, the approach to the error pointed out warrants a review of the precedents on the point.

15. It is axiomatic that the right of appeal cannot be assumed unless expressly conferred by the statute or the rules having the force of a statute. The review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. The power of review is different from appellate power and is subject to the following limitations to maintain the finality of judicial decisions:

15.1 The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC.1

15.2 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.2

15.3 In exercise of the jurisdiction under Order 47 Rule 1 of 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.3

15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power.4

15.5 The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is

signed or pronounced, it should not be altered.⁵Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors.⁶

16. To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted.”

9. As reiterated by the Hon’ble Supreme Court in the aforesaid decision, the review jurisdiction cannot be invoked for rehearing the matter or merely for substituting one view for another.

10. It is also necessary to bear in mind that a finding that the action of the authorities was arbitrary does not, in every case and as a matter of inexorable consequence, mandate grant of full retrospective monetary benefits. The relief to be granted in exercise of writ jurisdiction depends upon the facts and circumstances of each case. In the present case, the judgment under review, while recognising the Petitioners’ entitlement to notional service benefits, consciously declined to impose financial liability upon the State for the past period. Such a decision, particularly having regard to the passage of considerable time, cannot be said to suffer from any patent error merely because a different view as to the extent of relief may also be possible. The exclusion of financial benefits was, therefore, a conscious determination and not an omission or inadvertence.

11. To accept the contention of the Petitioners would require reconsideration of the extent of relief granted in the judgment under review and substitution of the same by a direction for payment of arrears. Such an exercise would necessarily entail reconsideration of the very circumstances which weighed with the Court in denying financial benefits and would amount to a rehearing of the matter, which is impermissible in review jurisdiction.

12. The reliance placed upon decisions laying down the general principle that consequential benefits may follow upon an illegal denial of service benefits does not advance the case of the Petitioners. The question is not whether monetary benefits can, in an appropriate case, be granted as a consequence of unlawful State action, but whether their exclusion in the present case constitutes an error apparent on the face of the record. The two questions are materially distinct. Likewise, the principle of restitution cannot be invoked as an inflexible rule requiring payment of every monetary consequence irrespective of the facts and circumstances of the case. The Petitioners have already been granted notional service benefits from their respective dates of initial entry, including seniority and counting of service. The mere assertion that financial benefits ought also to have been granted, therefore, does not disclose any error apparent warranting review.

13. The reliance placed upon decisions laying down the general principle, that consequential benefits may follow upon an illegal denial of service benefits, does not advance the case of the Petitioners. The question is not whether monetary

benefits can, in an appropriate case, be granted as a consequence of unlawful State action, but whether their exclusion in the present case constitutes an error apparent on the face of the record. The two questions are materially distinct. As reiterated by the Hon'ble Supreme Court in **Malleeswari** (supra), the power of review may be exercised for correction of a mistake, but not for substituting one view for another, and a review Court does not sit in appeal over its own order. The mere assertion that financial benefits ought also to have been granted, therefore, does not disclose any error apparent warranting review.

14. In view of the foregoing discussion, we are unable to find any error apparent on the face of the record warranting interference with the judgment under review. The grounds urged by the Petitioners seeking reconsideration of the extent of relief granted by the judgment under review, which is beyond the permissible scope of review jurisdiction. The Review Petitions, therefore, do not merit acceptance.

15. Accordingly, RVWPET No.116 of 2026 and RVWPET No.119 of 2026 are dismissed. Pending I.A.s, if any, stand disposed of. There shall be no order as to costs.

FOOTNOTES

1. Meera Bhanja v. Nirmala Kumari Choudhury, (1995) 1 SCC 170.
2. Aribam Tuleswar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389.
3. Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715.
4. Lily Thomas v. Union of India, (2000) 6 SCC 224.
5. Inderchand Jain v. Motilal, (2009) 14 SCC 663.
6. Shivdev Singh v. State of Punjab, AIR 1963 SC 1909.