

**(2012) 09 CHH CK 0001**  
**In the Chhattisgarh High Court**  
**Case No : Review Petition No. 57 OF 2012**

|                           |    |            |
|---------------------------|----|------------|
| Smt Nilima Naveen Dole    | Vs | APPELLANT  |
| Union of India and Others |    | RESPONDENT |

**Date of Decision :** 06-09-2012

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1  
Constitution of India, 1950 — Article 226

**Citation :** (2012) 09 CHH CK 0001

**Hon'ble Judges :** Satish K. Agnihotri, J; R.S. Sharma, J

**Bench :** Full Bench

**Advocate :** N.K. Shukla with Mr. S. Pandey, for the Appellant; R. Pradhan  
Advocate for the Union of India, for the Respondent

**Final Decision :** Dismissed

## Judgement

(Application for review of the order dated 22-2-2012 passed in WP (S) No. 1168 of 2008)

Heard learned counsel for the parties.

1. The review petitioner (for short "the petitioner") seeks review of the order passed by this Court in Smt. Nilima Naveen Dole vs. Union of India and others<sup>1</sup> mainly on the grounds that while dismissing the writ petition, this Court reached to the conclusion that the marks, which were obtained by the petitioner, were lesser than that of respondent No. 4 and, therefore, the promotion of the petitioner was rightly cancelled. The Court ought to have considered the other aspects e.g. (1) the petitioner had worked for two years on the promoted post successfully; (2) the mistake which was cropped up, should have not been cropped up if due care would have been taken by the Officers of the Department to whom the responsibility of the examination was entrusted; and (3) the Department has not taken any action against those persons who are guilty of committing misconduct. The further contention of the petitioner is that since, the mistake is not attributed to the act of the petitioner, the petitioner should not

suffer and the promotion which was made in 2004-05 may be continued. Having heard learned counsel appearing for the parties, perused the pleadings and the documents appended thereto, it is crystal clear that while passing the order dated 22-02-2012 in WP (S) No. 1168 of 2008, this Court after considering the arguments advanced by the learned counsel appearing for both the parties on the basis of the averments made in the pleadings and also having considered the rules, regulations and judicial precedents held as under:-

20. After giving show cause notice to the petitioner, she was afforded with a proper opportunity of hearing and, thereafter, order dated 29-8-2006 (Annexure P-7) was passed by the competent authority.

21. The question of reversion can only arise when a valid and proper promotion has been given. If promotion has been given by mistake then a subsequent reversion made with a view to rectify such mistake cannot be considered as reversion. The official respondents realized the mistake and corrected the same. During the review, when it was discovered that the petitioner was mistakenly declared successful but she had secured lesser marks than respondent No. 4 Krishna Kumar Dewangan then the name of the petitioner was deleted from the list of successful candidates. Therefore, the mistake has rightly been rectified by respondents No. 1 to 3 by deleting the name of the petitioner from the select list and reversion of the petitioner in consequence of the said rectification cannot be treated as reversion.

22. We have considered all the aspects in the light of the decisions cited above. We do not find any illegality or error of jurisdiction in passing the impugned orders by the Tribunal

2. The contentions raised for the first time in review petition is not maintainable, as the grounds of the review petition were neither pleaded nor argued at the time of hearing of the writ petition and on this ground, the present review petition is not admissible.

3. There is no other ground pointed out by the petitioner showing any manifest error on the record and has not further brought into the notice, any new facts, which could not be produced earlier despite diligent efforts made by the petitioner. It is well settled principles of law that 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 the Code of Civil Procedure. Even in exercise of review jurisdiction by the High Court under Article 226 of the Constitution, the petitioner has not produced any ground for review.

4. 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.

5. 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. (See : Meera Bhanjan v. Smt. Nirmal Kumar Cohwdhary<sup>2</sup>, Lily Thomas etc. v. Union of India and others<sup>3</sup>, Ajit Kumar Rath v. State of Orissa and others<sup>4</sup>, Government of T.N. & Others v. M. Ananchu Asari and others<sup>5</sup>, and Kerla State Electricity Board v. Hitech Electrothermicsm & Hydropower Ltd. and others<sup>6</sup>). In view of foregoing, the review petition, sans substratum, is dismissed with the above clarification.