
(2015) 07 MAD CK 0150

In the Madras High Court

Case No : Review Application (MD) No. 96 of 2014

State and Others

APPELLANT

Vs

C. Jebakumar and Others

RESPONDENT

Date of Decision : 29-07-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 40 Rule 1, Order 47 Rule 1
Constitution of India, 1950 — Article 137, 145, 226

Citation : (2015) 07 MAD CK 0150

Hon'ble Judges : S. Manikumar, J;G. Chockalingam, J

Bench : Division Bench

Advocate : B. Pugalendhi, Spl. Govt. Pleader, for the Appellant; P. Subramanian for D. Anbarasu, Advocates for the Respondent

Final Decision : Dismissed

Judgement

S. Manikumar, J—The Government in Rural Development and Panchayat Raj Department and the District Collector, Kanyakumari District, have come forward with the present review application, seeking to review the order passed in Writ Appeal (MD)No. 147 of 2013, dated 22.02.2013.

2. Short facts, necessary for the disposal of the review petitioner, as could be deduced from the materials on record, are that respondent-1 herein was working as Drinking Water supply Assistant in the 2nd respondent panchayat, from 14.12.1998, on daily wages, as fixed by the 2nd review petitioner, District Collector, Kanyakumari District. However, the 2nd respondent panchayat, without giving any notice to the 1st respondent, revised his pay from daily wages to consolidated pay of Rs. 400/- per month. Aggrieved by the same, respondent No. 1 filed Writ Petition No. 10439 of 2002, seeking a writ of mandamus to direct the 2nd respondent panchayat to pay salary, on daily wages basis, as fixed by the District Collector and the said writ petition was allowed on 02.03.2002. Writ Appeal No. 2413/2003 filed by the review petitioners was dismissed on 17.02.2004 and the Special Leave Petition No. 122380 of 2004, filed before the

Hon"ble Supreme Court has also been withdrawn by the review petitioners.

3. Thereafter, on the strength of G.O. Ms.No. 528, Personnel and Administrative Reforms Department, dated 10.10.1998, respondent No. 1 approached the review petitioners to appoint him in regular time scale of pay. The 2nd respondent Panchayat also recommended the case of the respondent No. 1 for regular employment. Since there was no response, respondent No. 1 filed Writ Petition (MD)No. 4820 of 2011, seeking a direction to the District Collector, Kanyakumari District, the 2nd review petitioner, to consider his representation, dated 17.02.2010, based on the resolution of the 2nd respondent panchayat, dated 26.03.2010, and to absorb him in the regular time scale of pay, as Drinking Water Supply Assistant, in the 2nd respondent panchayat. However, following the order dated 18.07.2007, passed in W.P. (MD)No. 1333 of 2004, vide order dated 17.07.2012, a learned Single Judge of this Court dismissed the writ petition.

4. Aggrieved by the same, respondent No. 1 filed W.A. (MD)No. 147 of 2013, contending, inter alia, that as per G.O. Ms.No. 528, Personnel and Administrative Reforms Department, dated 10.10.1998, guidelines have been issued to the effect that persons appointed on daily wages to discharge the functions of the posts included in Tamil Nadu Basic Service, through Employment Exchange, have to be appointed as against regular vacancies in regular time scale of pay, with reference to age and education qualifications, in any one of suitable posts in the Tamil Nadu Basic Service and further contending that a clarification has also been issued by the 1st appellant, clarifying that part-time employees, who were employed through Employment Exchange, should also be appointed in regular time scale of pay and based on the said clarification, the 2nd respondent prepared a list of candidates and appointed some persons in regular time scale of pay. Per contra, it was the contention of the review petitioners that respondent No. 1 was not entitled to regularization, as he was only a part-time employee and not a full time employee.

5. A Hon"ble Division Bench of this Court, after adverting to the submissions of both the parties, vide order dated 22.02.2013, allowed the writ appeal, holding as under:

"4.1. A perusal of the order of appointment dated 15.10.1999 go to show that the employment of the appellant/petitioner cannot be construed as a part time employment as he has been directed to work not only in morning and evening, but during day times if required by the panchayat. It goes without saying that the appellant/petitioner should make himself available, awaiting the call of the panchayat at any time during day time, apart from discharging his duties in the morning as well as in the evening. The appellant/petitioner, who is a daily wage employee is likely to lose even that daily wage if he is not available for the call of the panchayat at any time during the day. Therefore, the contention that the appellant/petitioner was a part time employee cannot be accepted. A perusal of the order dated 15.10.1999 also go to show that he had been discharging his

duties even prior to that date. It will be relevant to quote the order passed by this Court in W.P. No. 12332 of 2010 dated 26.11.2009 relying upon the norms laid down under the Tamil Nadu Industrial Establishment (Conferment of permanent status to workmen) Act and also relying upon the decision reported in K. Duraisamy Vs. Tamil Nadu Electricity Board and others, (1992) 2 LLJ 197 , ordering regularization of the services of a water supply attender in a village panchayat. This decision would apply to the case of the appellant/petitioner also.

5. The learned counsel appearing for the appellant submitted that already there is an order passed by this Court in W.A. No. 2413 of 2003 and as against which, SLP preferred by the Government was also withdrawn and therefore, the only course open to the Government is to obey the orders passed by this Court and to appoint the petitioner in the regular time scale of pay based on the resolution of the panchayat. It is also contended that as per the resolution of the panchayat, it is the right of the petitioner to get appointment as full time worker on regular basis.

5.1. When it is an admitted fact that the Special Leave Petition was withdrawn by the Government itself and consequently, the order of the Writ Appeal in W.A. No. 2413 of 2003 has become final, it is not open to the Government to contend that they will not consider the case of the petitioner. Moreover, when persons similarly placed have been favourably considered and they have been appointed in the regular time scale of pay, there is no reason as to why this petitioner alone should be singled out and should not be appointed, especially when there is a resolution dated 26.3.2010 passed by the third respondent panchayat. Therefore, the claim of the appellant/writ petitioner has to be accepted. If so, the order passed by the learned Single Judge has to be set aside and accordingly, the same is set aside.

6. In the result, the Writ Appeal is allowed and the order passed in the Writ Petition is set aside. The connected Miscellaneous petition is closed. No costs.

7. The Government is directed to pass orders regularizing the services of the appellant/petitioner in the regular time scale of pay within a period of six weeks from the date of receipt of a copy of this order."

6. The abovesaid order is sought to be reviewed by the review petitioners, contending, inter alia, that the appointment order of the 1st respondent itself would go to show that he was appointed only on daily wages basis and further he was not a full time employee and therefore G.O. Ms.No. 22, P & AR Department, dated 28.02.2006 and G.O. Ms.No. 144, Rural Development and Panchayat Raj Department, dated 09.09.2008, which provide for regularisation of temporary employees, working as full time employees, on completion of 10 years of service, in regular time scale of pay, are not applicable to the 1st respondent.

7. Per contra, learned counsel for 1st respondent contended that the review application is not at all maintainable, as there is no error apparent on the face of the order sought to be reviewed. He further contended that there is a specific

finding by the Hon"ble Division Bench that the appointment of the 1st respondent was on daily wages basis, as a full time employee and if at all, the review petitioners are aggrieved, they ought to have challenged the order in the writ appeal before the Supreme Court, by way of special leave. It is the further submission of the learned counsel for the 1st respondent that the earlier round of litigation, upto the Hon"ble Supreme Court, ended in favour of the 1st respondent and therefore the review petitioners are bound to implement the order in the writ appeal. Accordingly, the learned counsel prayed for dismissal of the review application.

8. Before advertng to the contentions raised by the counsel on either side, we would like to reiterate that review is not an appeal in disguise. Review can be made only if there is any mistake or apparent on the face of the record or there is any clerical error in the order sought to be reviewed. Useful reference can be made to a few decisions on the point of review.

(i) The Hon"ble Supreme Court in Lily Thomas, Vs. Union of India and Others, AIR 2000 SC 1650 : (2000) CriLJ 2433 : (2000) 2 DMC 1 : (2000) 5 JT 617 : (2000) 4 SCALE 176 : (2000) 6 SCC 224 : (2000) 2 UJ 1113 : (2000) AIRSCW 1760 : (2000) 3 Supreme 601 , while considering the scope of review and the limitations imposed on its exercise under Article 137 of the Constitution of India, held as follows:

"52. The dictionary meaning of the word "review" is the act of looking, offer, something again with a view to correction or improvement. It cannot be denied that the review is the creation of a statute. This Court in Patel Narshi Thakershi and Others Vs. Shri Pradyumansinghji Arjunsinghji, AIR 1970 SC 1273 : (1971) 3 SCC 844 , held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of law cannot stand in the way of administration of justice. Law has to bend before justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice nothing would preclude the Court from rectifying the error. This Court in S. Nagaraj and Others Vs. State of Karnataka and Another, (1993) 4 JT 27 : (1994) 1 LLJ 851 : (1993) 3 SCALE 548 : (1993) 4 SCC 595 Supp : (1993) 2 SCR 1 Supp : (1994) 1 SLJ 61 . held:

"19. Review literally and even judicially means re- examination or re-consideration. Basic philosophy inherent in it is the universal acceptance of human fallibility. Yet in the realm of law the courts and even the statutes lean strongly in favour of finality of decision legally and properly made. Exceptions both statutorily and judicially have been carved out to correct accidental mistakes or miscarriage of justice. Even when there was no statutory provision and no rules were framed by the highest court indicating the circumstances in

which it could rectify its order the courts culled out such power to avoid abuse of process or miscarriage of justice. In *Raja Prithwi Chand Lal Choudhury vs. Sukhraj Rai* and AIR 1941 1 (Federal Court) the Court observed that even though no rules had been framed permitting the highest Court to review its order yet it was available on the limited and narrow ground developed by the Privy Council and the House of Lords. The Court approved the principle laid down by the Privy Council in *Rajunder Narain Rae v. Bijai Govind Singh* (1836) 1 Moo PC 117 that an order made by the Court was final and could not be altered:

"...nevertheless, if by misprision in embodying the judgments, by errors have been introduced, these Courts possess, by Common Law, the same power which the Courts of record and statute have of rectifying the mistakes which have crept in.... The House of Lords exercises a similar power of rectifying mistakes made in drawing up its own judgments, and this Court must possess the same authority. The Lords have however gone a step further, and have corrected mistakes introduced through inadvertence in the details of judgments; or have supplied manifest defects in order to enable the decrees to be enforced, or have added explanatory matter, or have reconciled inconsistencies."

Basis for exercise of the power was stated in the same decision as under:

"It is impossible to doubt that the indulgence extended in such cases is mainly owing to the natural desire prevailing to prevent irremediable injustice being done by a Court of last resort, where by some accident, without any blame, the party has not been heard and an order has been inadvertently made as if the party had been heard."

Rectification of an order thus stems from the fundamental principle that justice is above all. It is exercised to remove the error and not for disturbing finality. When the Constitution was framed the substantive power to rectify or recall the order passed by this Court was specifically provided by Article 137 of the Constitution. Our Constitution-makers who had the practical wisdom to visualise the efficacy of such provision expressly conferred the substantive power to review any judgment or order by Article 137 of the Constitution. And clause (c) of Article 145 permitted this Court to frame rules as to the conditions subject to which any judgment or order may be reviewed. In exercise of this power Order XL had been framed empowering this Court to review an order in civil proceedings on grounds analogous to Order XLVII Rule 1 of the Civil Procedure Code. The expression, for any other sufficient reason in the clause has been given an expanded meaning and a decree or order passed under misapprehension of true state of circumstances has been held to be sufficient ground to exercise the power. Apart from Order XL Rule 1 of the Supreme Court Rules this Court has the inherent power to make such orders as may be necessary in the interest of justice or to prevent the abuse of process of Court. The Court is thus not precluded from recalling or reviewing its own order if it is satisfied that it is necessary to do so for sake of justice."

The mere fact that two views on the same subject are possible is no ground to review the earlier judgment passed by a Bench of the same strength.

53. This Court in *Northern India Caterers (India) Ltd. Vs. Lt. Governor of Delhi*, AIR 1980 SC 674 : (1980) 2 SCC 167 : (1980) 2 SCR 650 : (1980) 45 STC 212 : (1980) 12 UJ 494 considered the powers of this Court under Article 137 of the Constitution read with Order 47 Rule 1 CPC and Order 40 Rule 1 of the Supreme Court Rules and held:

"It is well settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so. *Sajjan Singh Vs. State of Rajasthan*, AIR 1965 SC 845 : (1965) 1 SCR 933 . For instance, if the attention of the Court is not drawn to a material statutory provision during the original hearing. *Girdhari Lal Gupta Vs. D.H. Mehta and Another*, AIR 1971 SC 2162 : (1971) 3 SCC 189 : (1971) SCC(Cri) 279 : (1971) 3 SCR 748 : (1971) 3 UJ 376 . The Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice. *O.N. Mohindroo Vs. The District Judge, Delhi and Another*, AIR 1971 SC 107 : (1971) 3 SCC 5 : (1971) 2 SCR 11 . Power to review its judgments has been conferred on the Supreme Court by Art.137 of the Constitution, and that power is subject to the provisions of any law made by Parliament or the rules made under Art. 145. In a civil proceeding, an application for review is entertained only on a ground mentioned in O. XLVII, Rule 1 of the Code of Civil Procedure and in a criminal proceeding on the ground of an error apparent on the face of the record. (Order XL, R.1, Supreme Court Rules, 1966). But whatever the nature of the proceeding, it is beyond dispute that 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. *Chandra Kanta v. Sheikh Habib* (1975) 3 SCR 935."

54. Article 137 empowers this Court to review its judgments subject to the provisions of any law made by Parliament or any rules made under Article 145 of the Constitution. The Supreme Court Rules made in exercise of the powers under Article 145 of the Constitution prescribe that in civil cases, review lies on any of the ground specified in Order 47 Rule 1 of the Code of Civil Procedure which provides:

"Application for review of judgment -(1) Any person considering himself aggrieved -

(a) by a decree or order from which an appeal is allowed, but from which, no appeal has been preferred.

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order."

Under Order 40 Rule 1 of the Supreme Court Rules no review lies except on the ground of error apparent on the face of the record in criminal cases."

(ii) In *Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma and Others*, AIR 1979 SC 1047 : (1979) 4 SCC 389 : (1979) 11 UJ 300 , the Supreme Court has held that,

"there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of 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 appellate powers which may enable an appellate court to correct all manner of errors committed by the subordinate court."

(iii) In yet another decision in *Rajender Singh Vs. Lt. Governor, Andaman and Nicobar Islands and Others*, AIR 2006 SC 75 : (2005) 5 CTC 487 : (2005) 107 FLR 1069 : (2005) 12 JT 109 : (2006) 1 LLJ 458 : (2005) 13 SCC 289 : (2006) SCC(L&S) 1057 : (2005) 3 SCR 1042 Supp : (2006) 1 SLJ 507 : (2005) AIRSCW 5486 : (2005) 7 Supreme 3 , the Hon"ble Supreme Court held that law is well settled that the power of judicial review of its own order by the High Court inheres in every Court of plenary jurisdiction to prevent miscarriage of justice. Power of judicial review extends to correct all errors to prevent miscarriage of justice. It was further held that Courts should not hesitate to review their own earlier order, when there exists an error on the face of record and the interest of justice so demands in appropriate cases.

(iv) In *The State of West Bengal and Others Vs. Kamal Sengupta and Another*, (2008) 8 JT 317 : (2008) 8 SCC 612 : (2008) 2 SCC(L&S) 735 : (2008) 3 SLJ 209 : (2009) 2 SLR 482 , the Hon"ble Supreme Court, at Paragraphs 14 and 15, has held that,

"14. At this stage it is apposite to observe that where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words, mere discovery of new or important matter or evidence is not sufficient ground for review *ex debito justitiae*. Not only this, the party seeking review has also to show that such additional matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court earlier.

15. The term 'mistake or error apparent' by its very connotation signifies an error which is evident *per se* from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court/Tribunal on a point of fact or law. In any case, while exercising the power of review, the concerned Court/Tribunal cannot sit in appeal over its judgment/decision."

(v) A Hon'ble Division Bench of this Court, in *Infant Jesus Teacher Training Vs M.Manikandan* (Rev.Appn.No. 38 of 2010 in W.A. No. 1145 of 2009, dated 31.08.2010), referring to various decisions of the Hon'ble Apex Court as well as this Court, has considered the scope of review and held as follows in paragraphs 14, 31 and 32 of the order:

"14. Considering the scope of review jurisdiction and holding "mistake or error apparent on the face of the record must be self evident and does not require a process of reasoning, in *Parsion Devi and Others Vs. Sumitri Devi and Others*, (1998) 1 CTC 25 : (1997) 8 JT 480 : (1997) 6 SCALE 432 : (1997) 8 SCC 715 : (1997) 4 SCR 470 Supp : (1997) 2 UJ 820 , the Supreme Court has held as under:

"7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In *Thungabhadra Industries Ltd. Vs. The Government of Andhra Pradesh*, AIR 1964 SC 1372 : (1964) 5 SCR 174 this Court opined:

"What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an error apparent on the face of the record. The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not *per se* be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an error apparent on the face of the record, for there is a distinction which is

real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by error apparent. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error."

.....

31. The review proceeding is not by way of an appeal. Holding that the review must be confined to error apparent on the face of the record and re-appraisal of the entire evidence on record for finding the error would amount to exercise of Appellate Jurisdiction, which is not permissible, in *Smt. Meera Bhanja Vs. Smt. Nirmala Kumari Choudhury*, AIR 1995 SC 455 : (1994) 7 JT 536 : (1994) 4 SCALE 985 : (1995) 1 SCC 170 : (1994) 5 SCR 503 Supp , the Supreme Court held as under:

"8. It is well settled 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, CPC. In connection with the limitation of the powers of the court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution of India, this Court, in the case of *Aribam Tuleswar Sharma Vs. Aribam Pishak Sharma and Others*, AIR 1979 SC 1047 : (1979) 4 SCC 389 : (1979) 11 UJ 300 , speaking through Chinnappa Reddy, J., has made the following pertinent observations:(SCC p. 390, para 3) "It is true as observed by this Court in *Shivdeo Singh and Others Vs. State of Punjab and Others*, AIR 1963 SC 1909 , there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of 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 appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.

9. Now it is also to be kept in view that in the impugned judgment, the Division Bench of the High Court has clearly observed that they were entertaining the review petition only on the ground of error apparent on the face of the record and not on any other ground. So far as that aspect is concerned, it has to be kept in view that an error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably be two opinions. We may usefully refer to the observations of this Court in the case of

Satyanarayan Laxminarayan Hegde and Others Vs. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137 : (1960) 1 SCR 890 , wherein, K.C. Das Gupta, J., speaking for the Court has made the following observations in connection with an error apparent on the face of the record:

"An error which has to be established by a long- drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ."

32. As held by the Supreme Court in Satyanarayan Laxminarayan Hegde and Others Vs. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137 : (1960) 1 SCR 890 , the error must be apparent on the face of the record i.e., error must be self- evident and not which has to be established by a long drawn process of reasoning or which has to be searched. In other words, it must be an error and it must be one which must be manifest on the face of the record. Under the guise of review, parties are not entitled to rehearing of the same issue. An error can be said to be apparent on the face of the record only if such error is patent and can be located without any elaborate argument and without any scope for controversy with regard to such error, which stares at the face even by a mere glance of the judgement. The said position of law is reiterated in the decisions reported in Parsion Devi and Others Vs. Sumitri Devi and Others, (1998) 1 CTC 25 : (1997) 8 JT 480 : (1997) 6 SCALE 432 : (1997) 8 SCC 715 : (1997) 4 SCR 470 Supp : (1997) 2 UJ 820 , Kerala State Electricity Board Vs. Hitech Electrothermics and Hydropower Ltd. and Others, (2005) 7 JT 485 : (2005) 2 SCR 517 Supp , Haridas Das Vs. Smt. Usha Rani Banik and Others, AIR 2006 SC 1634 : (2006) 2 CTC 321 : (2006) 3 JT 526 : (2006) 3 SCALE 287 : (2006) 4 SCC 78 : (2006) AIRSCW 1771 : (2006) 3 Supreme 125 and The State of West Bengal and Others Vs. Kamal Sengupta and Another, (2008) 8 JT 317 : (2008) 8 SCC 612 : (2008) 2 SCC(L&S) 735 : (2008) 3 SLJ 209 : (2009) 2 SLR 482 ."

9. Reverting to the case on hand, going through the order of the Hon''ble Division Bench in W.A.(MD)No. 147 of 2013, dated 22.02.2013, we do not find any mistake or error apparent on the face of it, warranting interference by way of review. Review petitioners seek to review a factual finding given in the writ appeal, wherein it has been categorically held that the respondent No. 1 was employed only as daily wage worker, on full time basis. It cannot be done in review. In view of the above discussion and decisions referred, the review application is dismissed. No order as to costs.