

(2020) 03 CHH CK 0098

In the Chhattisgarh High Court

Case No : Review Pition (REVP) No. 99 Of 2015

Vasudeo Singh Thakur

APPELLANT

Vs

Vice Chancellor And Ors

RESPONDENT

Date of Decision : 12-03-2020

Acts Referred:

Citation : (2020) 03 CHH CK 0098

Hon'ble Judges : Sharad Kumar Gupta, J

Bench : Single Bench

Advocate : Goutam Khetrapal

Final Decision : Dismissed

Judgement

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Sharad Kumar Gupta, J

1. Applicant has preferred instant review petition for review of the impugned order dated 15/03/2010 Annexure- P/49 passed by this Court in the matter of Vasudev Singh Thakur vs. Vice-Chancellor, Pt. Ravi Shankarb Shukla University Raipur (for short, 'University') and another, in W.P.(C) No. 1372 of 2001, whereby and whereunder the said WP was dismissed.

2. Earlier applicant had preferred said writ petition to quash the order dated 12/08/1999 vide Annexure P/45 passed by Registrar of the University, whereby and whereunder it was ordered that applicant seized to be University employee and order dated 29/01/2001 Annexure- P/48 passed by Deputy Secretary to the Governor whereby and whereunder the appeal of applicant was rejected.

3. While passing the impugned order dated 15/03/2010 Annexure- P/49 this Court observed in para No. 12 and 16 as under :-

"12. The petitioner has failed to establish that there was violation of principles of natural justice or inquiry was not held properly. It was further neither pleaded

nor established that the inquiry was based on no evidence. Thus, this Court cannot sit as an appellate authority over the finding recorded in the inquiry, which is not alleged to be either perverse or based on no evidence.

16. Applying the well settled principles of law and for the reasons stated hereinabove, the petitioner is not entitled to any relief as the action has been taken by the University against the petitioner in a fair and transparent manner and after affording full opportunity of hearing to the petitioner. There is no breach of principles of natural justice."

4. Applicant had preferred writ appeal against impugned order which was dismissed vide Annexure- P/50. Being aggrieved he preferred a petition for Special Leave to Appeal before Hon'ble Apex Court which was dismissed as withdrawn vide Annexure- P/52. Thereafter, applicant preferred Review Petition No. 54/2015 which was dismissed as withdrawn vide Annexure P/52. Thereafter, he preferred this instant Review Petition.

5. The case of applicant regarding instant review petition is that impugned order has been passed without appreciating the documents available on record, this Court has not considered that proper opportunity of hearing was not given to him, this Court did not consider that his dismissal order is based on different allegations which were leveled against him in charge, he was present in his duty since March 1989 till passing the order dated 12/08/1999, this Court overlooked this aspect that Chancellor of the University passed a non-speaking order.

6. Counsel for the applicant drew my attention on Annexure- P/19 (B), Annexure- P/20, Annexure- P/23(B), Annexure- P/31, Annexure- P/33, Annexure- P/36 (collectively), Annexure- P/38, Annexure- P/39, Annexure- P/40, Annexure- P/42, Annexure- P/43, Annexure- P/44 and Annexure-P/45 (C).

7. Counsel for the applicant placed reliance on the judgment of Hon'ble Supreme Court in the matter of 'Rajender Singh vs. Lt. Governor, Andaman and Nicobar Islands and others' (2005) 13 SCC 289, para 15 of which is extracted herebelow :-

"15. We are unable to countenance the argument advanced by learned Additional Solicitor General appearing for the respondents. A careful perusal of the impugned judgment does not deal with and decide many important issues as could be seen from the grounds of review and as raised in the grounds of special leave petition/appeal.

The High Court, in our opinion, is not justified in ignoring the materials on record which on proper consideration may justify the claim of the appellant. Learned counsel for the appellant has also explained to this Court as to why the appellant could not place before the Division Bench some of these documents which were not in possession of the appellant at the time of hearing of the case. The High Court, in our opinion, is not correct in overlooking the documents relied on by the appellant and the respondents. In our opinion, review jurisdiction is available

in the present case since the impugned judgment is a clear case of an error apparent on the face of the record and non- consideration of relevant documents. The appellant, in our opinion, has got a strong case in his favour and if the claim of the appellant in this appeal is not countenanced, the appellant will suffer immeasurable loss and injury. 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."

8. In the case in hand charge-sheet was issued to applicant vide Annexure- P/9. Reply was filed by him vide Annexure- P/30. It transpires from inquiry report Annexure- P/45(C) that applicant intimated that except charge No. 2 he is not agreed with inquiry regarding charge No. 1, 3, 4, 5 and 6, the inquiry is pending since 8 years and it would not be proper to continue it, he is absent since January 1990 without any intimation, thus it would be proper that action should be taken against him under Kandika 17(ii) of Sl. No.31 of Pariniyam of University.

9. As per Annexure- P/19(B) applicant was working in June 1991. There is no such material available on record which indicate that he was not continuously absent for last 5 years from the date of Annexure- P/45 i.e. 12/08/1999.

10. Prima facie it does not appear that there was violation of principles of natural justice or there was no evidence available against applicant. Prima facie it does not appear that fair and transparent manner was not adopted by non-applicants. Hence, aforesaid observation made by Hon'ble Apex Court in the matter of Rajender Singh (supra) is not helpful for applicant.

11. Looking to the above mentioned facts and circumstances of the case, this Court finds that while passing the impugned order this Court did not commit any mistake or error apparent on the face of the record. No sufficient ground exists for review.

12. Consequently, this Court finds that instant review petition deserves to be and is hereby dismissed.

13. Applicant shall bear his own cost as well as cost of respondents also.