

HIGH COURT FOR THE STATE OF TELANGANA

MAIN CASE No: W.P No.23400 of 2022

PROCEEDINGS SHEET

Sl. No.	Date	ORDER	OFFICE NOTE
6.	11.06.2026	<u>PSK,J & RRN,J</u> Counsel for the petitioner : Ms. B. Kavitha Yadav, Standing Counsel for Central Government Counsel for the respondents : Dr. Raghuvir Prasad Mathur (Party in Person) <u>I.A.No.1 of 2024</u> <u>Review Petition</u> Heard Ms. B. Kavitha Yadav, learned counsel for the review petitioner, and Dr. Raghuvir Prasad Mathur, respondent/party-in-person/writ petitioner. The present review petition has been filed seeking review of the order dated 04.01.2024 passed in W.P. No. 23400 of 2022 by a Division Bench of this Court. Vide the impugned order, the Division Bench allowed the writ petition, setting aside the order dated 08.10.2021 passed by the Central Administrative	Transferred to i/o folder, before corrections, if any.

		Tribunal (for short, "CAT") in O.A. No. 376 of 2020, as well as the order dated 06.01.2022 passed in Review Application No. 12 of 2021. The CAT had, in fact, dismissed the O.A., wherein the petitioner had challenged the action of recovery of Transport Allowance from the respondent/applicant before the Tribunal. When the matter came before this Court in W.P. No. 23400 of 2022, challenging the order of dismissal of the O.A., the Division Bench, relying upon the judgment of the Hon'ble Supreme Court in <i>State of Punjab v. Rafiq Masih and Others</i>¹, allowed the writ petition, holding the two orders passed by the CAT to be perverse and, consequently, directed the department/employer to release the withheld amount to the respondent/applicant. The contention of the learned counsel for the review petitioner is that the finding recorded by the Division Bench while allowing the writ petition, to	
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¹ (2015) 4 SCC 334

	the effect that the department had paid Transport Allowance to the respondent/applicant in excess for a period of more than five years, is per se erroneous and, therefore, liable to be interfered with in the present review petition. It was further contended that the judgment of the Hon'ble Supreme Court in <i>State of Punjab v. Rafiq Masih</i> (supra) would not be applicable to the facts of the present case for the reason that the respondent/applicant did not fall within the category of either Class III or Class IV employees, nor was he an employee who had retired from service before the recovery order was passed. According to the review petitioner, the respondent/applicant was working as a Scientist Grade-G, which is a Class-I post and a senior-level position in the department. It was further contended that the process for recovery had been initiated by the	
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	department on 24.07.2019, whereas the respondent/applicant attained the age of superannuation and retired from service on 31.01.2021. Thus, the recovery proceedings were initiated more than two years prior to his retirement. However, upon perusal of the order passed by the Division Bench, it is evident that there is a categorical finding that the recovery order which was actually acted upon for effecting recovery from the amounts payable to the respondent/applicant was dated 14.08.2020, i.e., less than six months prior to the date on which the respondent/applicant was due to retire from service. Moreover, the Division Bench has also recorded a finding of fact that the respondent/applicant had been drawing Transport Allowance from the department from the year 2013 till 2020, as would be evident from paragraph 4 of the	
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	judgment sought to be reviewed. The aforesaid contentions and grounds raised by the review petitioner, in the opinion of this Bench, do not constitute grounds available for review of an order containing specific findings of fact. At best, such grounds may be available to the review petitioner in an appeal, but certainly not in a review petition. So far as the scope of review jurisdiction is concerned, the legal position is well settled by a catena of decisions that a review petition can be entertained only if the ingredients envisaged under Order XLVII Rule 1 of the Code of Civil Procedure, 1908 are satisfied, namely, where there exists an error apparent on the face of the record. Such an error must be manifest, self-evident, and not one that requires a detailed examination or re-appreciation of the matter on merits. In the present case, if the grounds urged by the	
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	learned counsel for the review petitioner are entertained, it would necessarily require this Court to revisit the entire matter on merits and pass a fresh order altogether. In other words, it would amount to sitting in appeal over the judgment rendered by another Division Bench of this Court, which is impermissible in exercise of review jurisdiction. Such a course is neither sanctioned by law nor warranted by judicial propriety. For the aforesaid reasons, we are of the considered opinion that no case has been made out for allowing the present review petition. Accordingly, I.A. No. 1 of 2024 stands rejected. <u>PSK,J</u> <u>RRN,J</u> <i>aqs</i>	
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