

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**CMP(M) No.762 of 2026 a/w
Review Petition No.58 of 2026**

Decided on: 16th June, 2026

State of H.P. and another

.....Petitioners

Versus

Dina Nath and others

.....Respondents

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioners: Mr. Y.P.S. Dhaulta, Additional Advocate
General.

For the Respondents: Nemo.

Jyotsna Rewal Dua, Judge

State seeks review of *Dina Nath & Ors. Versus State of H.P. & Ors.*². Since there is delay of 312 days in filing the review petition, an application has been moved under Section 5 of the Limitation Act for condoning the delay.

2. Heard learned Additional Advocate General for the applicant/petitioner-State and considered the case file.

3. *Dina Nath and others*² was allowed on 01.04.2025 with following conclusion:-

¹ Whether reporters of print and electronic media may be allowed to see the order? Yes

² CWP No.10530/2023, decided on 01.04.2025

“5. The sum total of above discussion is that:-

- 5(a) When the sanctioned cadre strength of JSSs is already fully occupied, there is no justification to fill up more posts of JSSs.
- 5(b) Under the impugned decision, respondents No.1 & 2 presently intend to fill up 10 more posts of JSSs on secondment basis. However, the R&P Rules 2019 for the posts of JSSs do not provide filling up the posts on secondment basis.
- 5(c) Even assuming that posts of JSSs can be filled up on secondment basis disregarding the R&P Rules in view of instructions dated 08.02.2017 issued by Department of Personnel as put forth by the respondents, then also as per provision of the R&P Rules as also the 2017 instructions, the same cannot be resorted to till the R&P Rules are relaxed in consultation with Himachal Pradesh Public Service Commission. Admittedly, the R&P Rules for the post of JSSs have not been relaxed in consultation with HPPSC to make way for filling up the posts on secondment basis.
- 5(d) As per the Rules in place, the posts of JSSs cannot be filled up on secondment basis from the category of Steno-Typists working in different Departments/ Boards/Corporations that too for manning the vacancies in the higher cadre of Private Secretary/ Personnel Assistant/Senior Scale Stenographers in the H.P. Secretariat.

In view of above, the writ petition is allowed. The impugned decision of respondents No.1 & 2 as contained in letter dated 05.12.2023, is quashed and set aside. Pending miscellaneous application(s), if any, shall also stand disposed of.”

State seeks review of the above decision primarily on the ground that Rule 170(5) of the Himachal Pradesh Financial Rules, 2009 empowers the Government to make appointments in lower grades against vacancies in higher grades. Therefore, the administrative action impugned in the writ petition was within the competence of

the Government and consistent with the applicable service rules.

4. On perusal of the entire writ file, more specifically the reply filed therein by the State, not even a whisper of Rule 170(5) of the Himachal Pradesh Financial Rules, 2009 could be discerned. The grounds taken in the reply for defending the action impugned in the writ petition as also the submissions made for the State have been considered in the judgment while allowing *Dina Nath and others*². Under the guise of review petition, the State cannot be allowed to reopen the entire matter. Rehearing of the matter in the manner sought for by the State is impermissible.

The principles for reviewing a decision were summed up in ***Sanjay Kumar Agarwal Versus State Tax Officer (1) and another***³ as under:-

“16. The gist of the aforesaid decisions is that:

16.1. A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

16.2. 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.

16.3. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

³ (2024) 2 SCC 362

16.4. *In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected".*

16.5. *A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise".*

16.6. *Under the guise of review, the petitioner cannot be permitted to reargue and reargue the questions which have already been addressed and decided.*

16.7. *An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.*

16.8. *Even the change in law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review."*

Further, in ***Malleeswari Versus K. Suguna and another***⁴, Hon'ble Apex Court held that review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Power of review is different from the appellate power. Following limitations were laid down for maintaining 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*⁵.

*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*⁶.

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

⁴ 2025 SCC OnLine SC 1927

⁵ Meera Bhanja v. Nirmala Kumari Choudhury, (1995) 1 SCC 170

⁶ Aribam Tuleswar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389

*remembered, has a limited purpose and cannot be allowed to be an appeal in disguise*⁷.

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*⁸.

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*⁹. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors¹⁰.”

It was further held that though 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 higher court correcting such errors. At both the stages, detailed reasoning is not warranted. Distinction between power of review and appellate power as also the power & scope of review jurisdiction was summed up as under:-

“17.1 *The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.*

17.2 *Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of*

⁷ Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715

⁸ Lily Thomas v. Union of India, (2000) 6 SCC 224

⁹ Inderchand Jain v. Motilal, (2009) 14 SCC 663

¹⁰ Shivdev Singh v. State of Punjab, AIR (1963) SC 1909

*the record*¹¹. Such an error is a patent error and not a mere wrong decision¹². 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 record¹³.

17.3 Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories¹⁴."

While dismissing CMP(M) No.916 of 2023 and Review Petition No.97 of 2023 on 23.08.2023, Hon'ble Division Bench of this Court held that '*new grounds not argued by the HPSEB at the time of hearing of the CWP No.2398/2016 cannot be raised by the HPSEB in the Review Petition. (See: Janak Raj Jai v. H.D. Deve Gowda*¹⁵).'

Applying the above principles to the facts of the instant case, it was for the petitioner-State to have exercised due diligence while defending its action in the writ petition. There is no mistake or error apparent on the face of record. Petitioner-State is only seeking reconsideration and rehearing of the entire case. No case for review is, thus, made out.

¹¹ Hari Vishnu Kamath v. Syed Ahmad Ishaque, (1955) 1 SCR 1104

¹² T.C. Basappa v. T. Nagappa, AIR (1954) SC 440

¹³ Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, AIR (1960) SC 137

¹⁴ Chhajju Ram v. Neki, 1922 SCC OnLine PC 11 and approved in Moran Mar Basselios Catholicos v. Mar Poulouse Athanasius, AIR (1954) SC 526

¹⁵ (1997) 10 SCC 462

Even otherwise, no cogent reasons have been given by the petitioner-State for condoning the delay of about 312 days in instituting the review petition. The decision was rendered on 01.04.2025. As per the facts pleaded in the application, certified copy of the judgment was made available to the State on 26.05.2025. The review petition was filed on 06.05.2026. The undue long delay has not been cogently explained.

5. For the foregoing reasons, no case for review of the judgment in question or for condoning the delay in filing the review petition is made out. Accordingly, the present application for condonation of delay is dismissed. Consequently, the main review petition is also dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

June 16, 2026
Mukesh

Jyotsna Rewal Dua
Judge