



Form J(2)  
Sl.No.13-14  
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**In the High Court at Calcutta**  
**Constitutional Writ Jurisdiction**  
**Appellate Side**

*Present:*

**The Hon'ble Justice Aniruddha Roy**

**RVW 100 OF 2024**  
**In**  
**WPA 22484 OF 2019**

The District Inspector of Schools  
(Secondary Education), Barrackpore  
North 24 Parganas

**Vs.**

Alok Kumar Mallick & Ors.

**With**  
**RVW 298 OF 2024**  
**In**  
**WPA 22484 OF 2019**  
**With**  
**I.A. No. CAN 2 OF 2024**

The Shyamnagar Kanti Chandra High School  
(Secondary Education), Shyamnagar  
North 24 Parganas & Ors.

**Vs.**

Alok Kumar Mallick & Ors.

**For the Review Applicants in RVW 100 of 2024 :**

Mr. Sahasrangshu Bhattacharjee, Ld. A.G.P.  
Ms. Mary Datta, Adv.  
Ms. Adrisrata Chakrabarty, Adv.

**For the Review Applicants in RVW 298 of 2024 :**

Ms. Tapati Samanta, Adv.



For the Writ petitioner/Opposite Party:

: Mr. Sanajit Kumar Ghosh, Adv.  
Mr. Biswajit Konar, Adv.  
Mr. Arijit Mahinder, Adv.  
Mr. Santunu Gayan, Adv.

*Heard on* : July 24, 2026

*Judgment on* : July 24, 2026

[In Court]

**Aniruddha Roy, J. :**

**Facts :**

1. These two review applications have been filed arising from the sole and single order dated **February 22, 2024** passed in the writ petition being **WPA 22484 of 2019**.
2. The applicant in the first review application being **RVW 100 of 2024** (hereinafter, first review application) is the jurisdictional District Inspector of Schools and in the second review application being **RVW 298 of 2024**, the applicant is the School authority.
3. Only the inescapable facts are stated.
4. The writ petitioner claimed to have worked as Head Master of one **Shyamnagar Kanti Chandra High School, District - North 24 Parganas** (hereinafter, the **School**). The writ petitioner was **engaged** in the year **1987** and had **retired** on **October 31, 2019**. Prior to his retirement, the writ petitioner submitted all his relevant documents on



**April 22, 2019** for the purpose of preparation of the **Pension Payment Order** (hereinafter, **PPO**). The necessary clearance and the online acknowledgement is also available in the writ petition.

5. On **June 3, 2019** the School through its Head Master submitted the final pension file for payment of Pension in favour of the writ petitioner before the jurisdictional District Inspector of Schools (hereinafter, **D.I.**). The relevant School also submitted the papers regarding final withdrawal of Provident Fund of the writ petitioner dated **September 6, 2019** before the jurisdictional Assistant Inspector of Schools, the document is also available in the writ petition as appended thereto. The relevant School also made a prayer before the Jurisdictional Assistant Inspector of Schools through its letter dated **September 6, 2019** so that, the writ petitioner could withdraw the Provident Fund amount. The said letter of the School authority also contained the endorsement of one Arun Guha, being the then President of the Managing Committee of the School.

6. On the basis of all these documents and records which were appended to the writ petition, the necessary **Pension Payment Order** dated **November 7, 2019** was issued in favour of the writ petitioner. The endorsement appearing at **page 63** to the writ petition shows that, the President of the Managing Committee of the School had duly taken charge from the writ petitioner for the post of Head Master wherefrom the writ petitioner had retired.



7. Since retirement the petitioner had made demands before the appropriate State authority for releasing his all retiral benefits which included Pension, Provident Fund, Gratuity etc. but the same were not released, except provident fund, though the writ petitioner had rendered his service **since 1987**.

8. In the conspectus of the above facts, the writ petitioner had filed the writ petition. Affidavits were directed to be filed and exchanged by the parties thereto. During the final hearing of the writ petition this Court found that, the original affidavit-in-opposition was not on record however, the petitioner had filed his affidavit-in-reply which was on record. It further appeared that a purported **Charge Sheet** dated **April 21, 2022** was enclosed in the copy of the affidavit-in-opposition which was served upon the writ petitioner.

9. During the hearing neither the School authority nor the State had been represented, no submission was there on behalf of the respondents in the writ petition with regard to the alleged charge sheet or the alleged disciplinary proceeding allegedly instituted against the writ petitioner. The **Charge Sheet** being dated **April 21, 2022** shows that, same was issued much subsequent to the date of the retirement of the petitioner being **October 31, 2019**. The charge sheet further demonstrated that an alleged complaint dated **October 1, 2019** was lodged against the writ petitioner about **10 days prior** to the retirement of the writ petitioner. The alleged complaint was lodged by one Tanmoy Biswas, who became



the Teacher-in-charge of the School appointed after the retirement of the writ petitioner. The said complainant at all material time was an Assistant Teacher working at the School and was a colleague of the writ petitioner during his employment tenure, even then no complaint was lodged against the writ petitioner before the said complaint.

10. The records further demonstrated that the Managing Committee of the School duly took over charge from the writ petitioner at the time of his retirement from the post of Head Master without any objection or demur. Even though the alleged complaint having been lodged about ten days prior to the retirement of the writ petitioner, no disciplinary proceeding was initiated against the writ petitioner before his retirement. The charge sheet was not in existence nor the disciplinary proceeding was pending as on the date of retirement. The writ petitioner had served the School for about **32 years**.

11. In such circumstance, after hearing the learned advocate appeared for the writ petitioner and after considering the materials before the Court on record, this Court had allowed the writ petition, *inter alia*, with the following observations/directions:

*“For the foregoing reasons the appropriate authority and/or authorities are directed to take all necessary and consequential steps in terms of the Pension Payment Order already issued in favour of the petitioner to release all the retiral benefits including Provident Fund amount to which the petitioner is eligible strictly in accordance with law and shall disburse and pay the necessary payment by crediting the bank account of the petitioner positively within a period of **eight weeks** from the date of communication of this order.”*



12. Being aggrieved by the said order dated **February 22, 2024**, whereunder the writ petition was allowed, the review applicants had preferred these two review applications. The review applications were filed beyond the period of limitation. However, the delay was condoned and the review petitions were admitted for final consideration by this Court by an order dated **July 7, 2025**. The writ petitioner has been receiving Provisional Pension.

**Submissions :**

13. Mr. Sahasrangshu Bhattacharjee, learned Additional Government Pleader, appearing for the D.I./State submits that, the statutory rules have permitted the school authority to initiate disciplinary proceeding within an extended period with the approval of State Government in appropriate cases. Mr. Bhattacharjee refers to **Sub-Rule (3) to Rule 5** from the **West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching Staff) Rules, 2018** (hereafter, the said **2018 Rules**). He further submits that, necessary permission for extension of time to initiate disciplinary proceeding was granted by the State Government in this case and on the basis of such permission, the disciplinary proceeding had been initiated and the same is still pending. Criminal



Case is also pending against the writ petitioner before the jurisdictional Criminal Court.

14. Mr. Sahasrangshu Bhattacharjee, learned Additional Government Pleader further submits that, all the relevant records in support of the submissions made hereinabove were there in the affidavit-in-opposition but since the original affidavit-in-opposition was not filed and made part of the record of the Court, no cognizance could be taken of the same by this Court. Due to inadvertence and *bona fide* mistake the State and/or the respondents in the writ petition could not be represented at the time of final hearing of the writ petition. Had these documents been considered by the Court, the judgment would have been different. Thus, he prays that the review application filed by the D.I. should be allowed and the order dated **February 22, 2024** should be reviewed and recalled. Because of the pending disciplinary and criminal proceeding the terminal benefits are withheld.

15. Ms. Tapati Samanta, learned Advocate appearing for the school authority has adopted the submissions of the learned State counsel, recorded above. She also submits that, the review petition should be allowed and the order dated **February 22, 2024** should be recalled and the respondents in the writ petition should be granted an opportunity of hearing.

**Decision :**

16. After considering the rival contentions of the parties and on perusal of the materials on records, it appears to this Court that, the facts narrated above, are not in dispute.
17. Sitting in a review jurisdiction this Court once again reiterates the relevant legal provisions laid down under **Order XLVII** of the **Civil Procedure Code, 1908** (hereinafter, the **Code**). Any person considering himself aggrieved, as in the instant case from the said order dated **February 22, 2024** allowing the writ petition, from the discovery new or important matters 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 order was made, or on account of some mistake or error apparent on the face of record or for any other sufficient reason can proceed for review of the order.
18. Admittedly, no appeal has been preferred from the said order dated **February 22, 2024**. Admittedly, despite notice, the respondents in the writ petition chose not to be represented. Admittedly, no affidavit-in-opposition was filed and the same was not on record of the Court. In absence of affidavit-in-opposition and in absence of the representation of the respondents in the writ petition, the materials, as contended, by the review applicants herein, were admittedly not before the Court as part of the record, thus the question of error on the face of record having been apparent on the said order dated **February 22, 2024** does not and





cannot arise. It is also not the case that despite due diligence, the review applicants did not have access to the relevant records. The review applicants were also on due and adequate notice as the matter was running in the Cause list but still they were not represented at the time of final hearing of the writ petition and allowed the writ petition to be proceeded *ex parte* and without filing affidavit-in-opposition. Therefore, this Court also finds that, no sufficient reason is there as contemplated under the relevant provision of the Code. No new material has also been discovered by the review applicants. The review Court cannot sit on appeal over the subject order, as it is not an appellate power.

19. With the passage of time the law on review has now been crystalised and well settled in the manner stated hereinafter :

**(i) In the matter of: Meera Bhanja (Smt) Vs. Nirmala Kumari Choudhury (Smt) reported at (1995) 1 Supreme Court**

**Cases 170** the Hon'ble Supreme Court had 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 v. Aribam Pishak Sharma, 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 v. State of Punjab, 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.”*

**(ii) In the matter of: State of West Bengal & Ors. Vs. Kamal Sengupta & Anr. reported at (2008) 8 Supreme Court**

**Cases 612** the Hon’ble Supreme Court had held as under :

*“32. In Ajit Kumar Rath v. State of Orissa this Court reiterated that power of review vested in the Tribunal is similar to the one conferred upon a civil court and held”: (SCC p. 608, paras 30-31)*

*‘30. The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on the discovery of new and important mater 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 order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression ‘any other sufficient*



*reason' used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the Rule.*

*31. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."*

**(iii) In the matter of: S. Madhusudhan Reddy Vs. V. Narayana**

**Reddy & Ors.** rendered, inter alia, in **Civil Appeals No. 5503-**

**04 of 2022** the Hon'ble Supreme Court had held as under :

*"26. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review, is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order XLVII Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order XLVII Rule 1 for reviewing a judgment has been described as "for any other sufficient reason". The said phrase has been explained to mean "a reason sufficient on grounds, at least analogous to those specified in the rule"(Refer: **Chajju Ram v. Neki Ram and Moran Mar Basselios Catholicos and Anr. v. Most Rev. Mar Poulouse Athanasius and others**)."*

**(iv)** In addition to the above, the law on review is also well settled by the Hon'ble Supreme Court **In the matter of: Lily Thomas**



**& Ors. Vs. Union of India & Ors.** reported at **(2000) 6 Supreme Court Cases 224** wherein the Hon'ble Supreme Court had observed as under:

*"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 Thakersh and Ors. v. Pradyunman singh ji Arjun singh ji** 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 a miscarriage of justice nothing would preclude the Court from rectifying the error. This Court in **S. Nagaraj and Ors v. State of Karnataka and Anr.** held: (SCC pp. 619-20, para 19)*

*'19. Review literally and even judicially means re-examination or reconsideration. 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 Law Choudhury v. Sukhraj Rai** 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** 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 47 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. v. Lt. Governor of Delhi](#) considered the powers of this Court under [Article 137](#) of the Constitution read with [Order 47 Rule 1 CPC](#) and Order XL Rule 1 of the Supreme Court Rules and held: (SCC pp. 171-172, para 8)

*"8. 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 v. State of Rajasthan](#), SCR at p. 948. For instance, if the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will review its judgment: [Giridhari Lal Gupta v. D.N. Mehta](#), SCR at p. 760. 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 v. Distt. Judge, Delhi](#), SCR at p. 27. Power to review its judgments has been conferred on the Supreme Court by [Article 137](#) of the Constitution, and that power is subject to the provisions of any law made by Parliament or the rules made under [Article 145](#). In a civil proceeding, an application for review is entertained only on a ground mentioned in Order 47, [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': Sow [Chandra Kanta v. Sheikh Habib](#)."

20. The term **“mistake or error apparent”** by its plain meaning signifies an error which is *ex facie* evident from the record of the case and the same does not require any further examination or scrutiny or explain both on fact and law. If an error is not self-evident and detection thereof requires a detailed enquiry or assigning of reasons, it cannot be construed to be an error apparent on the face of record. An order cannot be corrected merely because it is erroneous in law or a different view could be arrived at on the same set of facts. In review, reappraisal of evidence is not permitted, as the Court exercising power of review is not an appellate authority.



21. In view of the foregoing reasons and discussions this Court is of the considered and firm view that, both these review applications are devoid of any merit and are not tenable in law and should be ***dismissed***.
22. In view of dismissal of the said review applications, the directions passed in the writ petition are once again reiterated and the appropriate authority and/or authorities are directed to take all necessary and consequential steps in terms of the ***Pension Payment Order***, already issued in favour of the petitioner, ***to release all the retiral benefits to which the writ petitioner is eligible strictly in accordance with law and shall disburse and make the necessary payment by crediting the bank account of the writ petitioner positively within a period of eight weeks from the date of communication of this order.***
23. It is made clear that, this Court has not expressed any opinion on the pending disciplinary proceeding and the criminal proceeding against the writ petitioner and the authorities shall be at liberty to proceed with the said two proceedings in accordance with law. The writ petitioner shall also be at liberty to take all his points, including the point of maintainability in accordance with law in both the said two proceedings.
24. In the event, the proceedings are decided against the writ petitioner and the writ petitioner is ultimately found to be guilty, the authorities shall be at liberty to take appropriate steps against the writ petitioner strictly in accordance with law.



25. It is further clarified and made clear that pendency of the disciplinary proceeding or the criminal proceeding shall not operate as a bar to release the payment in favour of the petitioner as directed herein and, therefore, pendency of those proceedings shall not be taken as a plea not to release the payment to the petitioner.
26. Since both the review applications have arisen from the sole and single order, both these review applications being **RVW 100 of 2024** and **RVW 298 of 2024** stand **dismissed**, without any order as to costs.
27. Accordingly, the application being **I.A. No. CAN 2 of 2024** stands **disposed of**.
28. Photostat certified copy of this order, if applied for, be furnished to the parties on usual undertaking.

**(Aniruddha Roy, J.)**