

IN THE HIGH COURT OF SINDH, AT KARACHI

Present:

Mr. Justice Irfan Saadat Khan

Mr. Justice Adnan-ul-Karim Memon

C.P No. D- 1502 of 2017

Masood Akhtar & 120 others.....Petitioners

V/s

Federation of Pakistan & 4 others.....Respondents

For hearing of CMA No.32995/2018
(For review or order dated 3.10.2018)

Date of hearing: 23.02.2019

Mr. Muhammad Ahmed, Advocate for the petitioners.
Mr. Adnan, Advocate for respondent/PSM.

ORDER

The captioned Petition was disposed of by this Court vide order dated 03.10.2018, with the following observations:-

“This petition has been filed for implementation of the policy dated 2.6.2009. Learned counsel for the petitioners states that he would be satisfied and would not press this petition if the respondents are directed to implement the policy dated 2.6.2009 without discriminating the petitioners in any manner and to promote them in accordance with law, if they fulfill all the legal and codal formalities. Learned counsel for Respondents No.2 to 5 so also learned AAG have no objection in this behalf.

We, under the circumstances of the case, dispose of this petition, with the consent of learned counsel for the parties, by directing the respondents to implement the policy dated 2.6.2009 in its letter and spirit and if the petitioners are found eligible for promotion needful may be done accordingly.

In terms of the above directions, the instant petition stands disposed of.”

2. The learned counsel representing Pakistan Steel has informed that the aforesaid order has not been assailed before the Hon'ble Supreme Court of Pakistan.

3. On 25.10.2018 the Applicant filed application under Order 47 read with Section 114 of Civil Procedure Code (CMA No. 32995/2018) for review of the order dated 3.10.2018 passed by this Court.

4. We queried from the learned counsel for the Applicant as to how the instant review application is maintainable against the consent recorded by the parties vide order dated 3.10.2018.

5. Mr. Adnan, learned counsel for the Applicant/PSM in reply to the query has submitted that Pakistan Steel Mill is closed since June, 2016 and no production activities are taken place; that PSM is running in losses of billions of rupees and is not even in a position to pay salaries to its employees; that in view of the financial position of PSM the Board of Directors of Respondent No.2 vide Circular dated 19.4.2018 resolved to suspend the implementation of Policy Circular dated 02.6.2009 till revival of the production activities and improvement in financial position of PSM; that the resolution / directives of the Board of Directors of Respondent No.2 were duly communicated to all employees of PSM through O.M dated 31.5.2018. Learned counsel added that in view of the aforesaid factum the order dated 03.10.2018 passed by this Court may be reviewed on the aforesaid premises.

6. Conversely, Mr. Muhammad Ahmed, learned counsel for the Petitioners has argued that the Respondent-PSM, in pursuance of the judgment dated 28.2.2017 passed in C.P No.D-130/2014 has already implemented the Policy Circular notified on 02nd June, 2009 vide O.M dated 15th October, 2018. He next submitted that the Respondent-PSM has misled this Court; on the one hand that they suspended the Policy Circular as discussed supra and on the other hand, they have implemented the same vide O.M dated 15th

October, 2018 on the direction of this Court, which explicitly show the malafide intention of the Respondent-PSM. He lastly prayed for dismissal of the review application.

7. At this stage, we are only concerned with the grounds of review as to whether the order dated 3.10.2018 passed by this Court needs to be reviewed?

8. We have heard the learned counsel for the Applicant on the listed application and have perused the material available on record and the grounds taken by him.

9. We have noticed that the review of the order can only be made by the party, if there is mistake or error apparent on the face of the record, as provided under Order XLVII (Section 114 CPC).

10. Upon perusal of the order dated 3.10.2018 passed by this Court, which explicitly show that we disposed of the captioned Petition by consent of the parties. It is well settled law that no review lies against the consent recorded by the parties before the Court of law.

11. We have also noticed that the Applicant through the instant Review Application has attempted to call in question the validity of the order passed by this Court, without assailing the same before the appellate forum as provided under Article 185 of the Constitution. The grounds taken by the Applicant in the aforesaid listed application does not merit consideration.

12. For the aforesaid reasons, we are not persuaded by the contention of the learned counsel for the Applicant that any case of Review is made out. This review application, therefore, merits dismissal as, in our view, our order dated 3.10.2018 was based on consent of the parties as the Respondent-PSM was well aware of the factum that the Policy Circular dated 02.6.2009 was already

under suspension and this Court was not informed by either party regarding the aforesaid factum at the time of disposal of the petition, rather assurance was given to this Court that they are ready and willing to implement the Policy Circular as discussed supra, therefore, we had no option but to dispose of the petition with the consent of the parties.

13. We have also noticed that in number of petitions on identical issue, the Respondent-PSM has consented for disposal of the petitions and implemented the orders passed by this Court in its letter and spirit, therefore, at this juncture, we do not find any inherent flaw floating on the surface of the record requiring our interference, for the simple reason that the order passed by this Court is clear in its terms. The calling in question the order dated 3.10.2018 by invoking the review jurisdiction is wholly misconceived.

14. In the light of above facts and circumstances of the case, no case for review is made out, the listed application bearing (CMA No. 32995/2018) is dismissed with no order as to cost.

JUDGE

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