

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-5453 of 2015

Date	Order with signature of Judge
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D/o matter

1. For order on CMA No.14995/2019.
 2. For order on CMA No.32609/2018.
 3. For order on CMA No.32610/2018.
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Date of hearing: 20.05.2019

Date of order: 20.05.2019

Mr. Riaz Ahmed Bhatti, Advocate for the Applicant.
Mr. Muhammad Akram Javed, Special Prosecutor NAB.
Ms. Durdana Tanveer DAG.

1. Urgency application is granted.
2. Granted subject to all just exceptions.
3. Through the listed application, under section 114 read with Section 151 CPC, the Petitioner seeks review of the order dated 28.09.2018 passed by this Court on the premise that he was not heard on merits.

We have gone through the contents of the aforesaid order passed by this Court. We have noticed that the instant petition was simply disposed of on the admission of the Petitioner that he was duly informed about the fate of the result of written test conducted by the NAB vide letter dated 05.11.2015 as referred in the Petitioner's own application dated 01.11.2017 made to the Chairman NAB. The sole prayer of the Petitioner was that he was not informed about the fate of his result and this Court, during the course of hearing of the aforesaid matter found the contention of the Petitioner not tenable and disposed of the matter accordingly.

Mr. Riaz Ahmed Bhatti, learned counsel for the Applicant while attacking the aforesaid order passed by this Court, has taken the plea that this Court while passing the order dated 28.9.2018 did not consider the material available on record and failed to

appreciate the factual position of the case; that the main purpose of the filing of the aforesaid petition was to obtain the result of the applicant, which was withheld by the Respondent-NAB; that this Court failed to consider the other relief[s] sought by the petitioner through the instant petition; that non-consideration of the aforesaid pleas at the time of passing the order under review, has caused grave prejudice to the Petitioner; that the main controversy in the instant Petition can only be adjudicated after perusal of the record and hearing of the petition, therefore, the order dated 28.9.2018 passed by this Court is required to be reviewed and the matter may be posted for hearing afresh on merits.

Be that as it may, we are only concerned with the grounds of review as to whether the order dated 28.9.2018 passed by this Court needs to be reviewed?

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

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).

Upon perusal of the order dated 28.9.2018 passed by this Court, which explicitly show that the Petitioner was head on merit as his contentions were found not tenable as the purpose of filing of the instant petition was served when record was confronted with the Petitioner, therefore, the question of reviewing the order does not merit consideration. Legal position of the case is that under Order II Rule 2 of Code of the Civil Procedure, 1908 provides that when the Petitioner intentionally relinquished the portion of the remaining prayers while arguing the matter on merits, he subsequently cannot claim the same relief, in respect of the portion so omitted or relinquished by him, through review petition

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 28.09.2018 was based on correct factual as well as legal position of the case and we do

not find any inherent flaw floating on the surface of the record requiring our interference.

These are the reasons of our short order, whereby we have dismissed the review application.

JUDGE

JUDGE

S.Soomro/ P.A