









**Form No. 4**  
**{See rule 11(1)}**  
**ORDER SHEET**  
**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**  
**Court No.1**

**O.A. No. 412 of 2022**

**Hav. (DMT) Jitendra Singh**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>19.05.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>Memo of Appearance filed by Shri Namit Sharma, Advocate on behalf of the respondents is taken on record.</p> <p>Heard Col. A.K. Srivastava (Retd.), Ld. Counsel for the applicant and Shri Namit Sharma, Ld. Counsel for the respondents.</p> <p>Applicant has filed this Original Application seeking direction to respondents to promote him to the rank of Naib Subedar with effect from 01.01.2022 after setting aside the orders leading to denial of his promotion.</p> <p>It is submitted by the Ld. Counsel for the respondents that in regard to grievance raised in Original Application applicant has preferred a Statutory Complaint under Section 26 of the Indian Army Act, 1950 which is dated 18.04.2022. It is further submitted that as required period of six months for disposal of Statutory Complaint has not passed, therefore the Original Application should be dismissed in view of Section 21(1) of the Armed Forces Tribunal Act, 2007.</p> <p>During the course of hearing, Ld. Counsel for the applicant admitted that applicant has preferred a Statutory Complaint against his grievance which is dated 18.04.2022.</p> <p>Section 21 (1) of the Armed Forces Tribunal Act, 2007 provides that Tribunal shall not ordinarily admit an application unless it is satisfied that applicant had availed of the remedies available to him under the respective Act, as the case may be, and respective rules and regulations made thereunder.</p> <p>Sub-Section (2) of the above Section provides that a person shall be deemed to have availed of all the remedies available to him under the respective Act and respective Rules and regulations –</p> <p>(a) <i>if a final order has been made by the Central Government or other authority or officer or other person competent to pass such order under the said Acts, rules and regulations, rejecting any petition preferred or representation made by such person;</i></p> <p>(b) <i>where no final order has been made by the Central Government or other authority or officer or other person competent to pass such order with</i></p>

*regard to the petition preferred or representation made by such person, if a period of six months from the date on which such petition was preferred or representation was made has expired.*

In the present case, admittedly, the Statutory Complaint which the applicant has preferred is dated 18.04.2022. The said complaint has not yet been disposed off nor the period of six months from the date when the complaint was made has passed. Applicant has also not assigned any reason why his Original Application should be entertained before the expiry of six months period.

In the circumstances we find that since Original Application has been filed before the expiry of six months from the date of submission of the Statutory Complaint without any justifiable reason the same is liable to be dismissed being not maintainable in view of Section 21(1) of the Armed Forces Tribunal Act, 2007.

Accordingly, Original Application is dismissed being not maintainable with liberty to file afresh in accordance with law.

**(Vice Admiral Abhay Raghunath Karve)**  
**Member (A)**

**(Justice Umesh Chandra Srivastava)**  
**Member (J)**

AKD/-

**Form No. 4**  
**{See rule 11(1)}**  
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**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**  
**Court No.1**

**O.A. No. 414 of 2022**

**Hav. (DMT) Chauhan Dharmendra**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>19.05.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>Memo of Appearance filed by Shri Shyam Singh, Advocate on behalf of the respondents is taken on record.</p> <p>Heard Col. A.K. Srivastava (Retd.), Ld. Counsel for the applicant and Shri Shyam Singh, Ld. Counsel for the respondents.</p> <p>Applicant has filed this Original Application seeking direction to respondents to promote him to the rank of Naib Subedar with effect from 01.11.2021 after setting aside the orders leading to denial of his promotion.</p> <p>It is submitted by the Ld. Counsel for the respondents that in regard to grievance raised in Original Application applicant has preferred a Statutory Complaint under Section 26 of the Indian Army Act, 1950 which is dated 13.04.2022. It is further submitted that as required period of six months for disposal of Statutory Complaint has not passed, therefore the Original Application should be dismissed in view of Section 21(1) of the Armed Forces Tribunal Act, 2007.</p> <p>During the course of hearing, Ld. Counsel for the applicant admitted that applicant has preferred a Statutory Complaint against his grievance which is dated 13.04.2022.</p> <p>Section 21 (1) of the Armed Forces Tribunal Act, 2007 provides that Tribunal shall not ordinarily admit an application unless it is satisfied that applicant had availed of the remedies available to him under the respective Act, as the case may be, and respective rules and regulations made thereunder.</p> <p>Sub-Section (2) of the above Section provides that a person shall be deemed to have availed of all the remedies available to him under the respective Act and respective Rules and regulations –</p> <p style="padding-left: 40px;"><i>(a) if a final order has been made by the Central Government or other authority or officer or other person competent to pass such order under the said Acts, rules and regulations, rejecting any petition preferred or representation made by such person;</i></p> <p style="padding-left: 40px;"><i>(b) where no final order has been made by the Central Government or other authority or officer or other person competent to pass such</i></p>

*order with regard to the petition preferred or representation made by such person, if a period of six months from the date on which such petition was preferred or representation was made has expired.*

In the present case, admittedly, the Statutory Complaint which the applicant has preferred is dated 13.04.2022. The said complaint has not yet been disposed off nor the period of six months from the date when the complaint was made has passed. Applicant has also not assigned any reason why his Original Application should be entertained before the expiry of six months period.

In the circumstances we find that since Original Application has been filed before the expiry of six months from the date of submission of the Statutory Complaint without any justifiable reason the same is liable to be dismissed being not maintainable in view of Section 21(1) of the Armed Forces Tribunal Act, 2007.

Accordingly, Original Application is dismissed being not maintainable with liberty to file afresh in accordance with law.

**(Vice Admiral Abhay Raghunath Karve)**  
**Member (A)**

**(Justice Umesh Chandra Srivastava)**  
**Member (J)**

AKD/-











**Form No. 4**  
**{See rule 11(1)}**  
**ORDER SHEET**  
**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**  
**Court No.1**

**Ex. A. No. 69 of 2019 Inre : O.A. No. 583 of 2017**

**Ex. Sep. Ajay Kumar Singh**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>19.05.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>Heard Shri Bhanu Pratap Singh Chauhan, Ld. Counsel for the applicant and Shri Yogesh Kesarwani, Ld. Counsel for the respondents.</p> <p>This application has been filed for implementation of order dated 29.01.2019 of this Tribunal in Original Application No. 583 of 2017 by which respondents have been directed to reinstate the applicant in service forthwith with all consequential benefits with entitlement of only 50% back wages for the period he has remained out of service. In the order it is also provided that respondents shall complete the exercise of payment etc. to the applicant within a period of four months from the date of order and in the event of failure they shall be liable to pay interest @9% per annum on the total amount accrued from the due date till actual payment.</p> <p>In compliance, it is submitted by Ld. Counsel for the respondents that applicant was reinstated in service on 24.09.2020 and for the period from 21.01.2012 to 23.09.2020, the period during which he was out from service, 50% back wages amounting to Rs.20,23,840/- has been paid to the applicant which includes Rs.1,92,137/- which has been deducted from the amount payable to the applicant towards Income Tax and Education Cess. It is further submitted that after deducting the aforesaid amount a sum of Rs.16,55,328/- has been credited in applicant's account. It is further submitted that since the order in question has been fully complied with by the respondents, as stated above, Execution Application be dismissed being infructuous.</p> <p>Contrarily, it is submitted by the Ld. Counsel for the applicant that as per order passed by this Tribunal the respondents have to pay 50% back wages for the period from 21.01.2012 to 29.01.2019 only and thereafter applicant is entitled to get full pay and allowances. It is further submitted that applicant is entitled to consequential benefits also, as said in the order, which include Children Education Allowance, MACP, House Rent Allowance, Transport Allowance, Alcohol Allowance and Army Group Insurance (AGI).</p>

After having heard the submission of Ld. Counsel of both sides and having gone through the order we find that since the applicant has been directed to be reinstated in service with all consequential benefits forthwith and respondents have been directed to implement the order within four months from the date of order the applicant is entitled to 50% of back wages which will include Basic Pay, Dearness Allowance and Military Service Pay (MSP) only for the period from 21.01.2012 till four months from the date of decision i.e. 29.04.2019. Thereafter, the applicant is entitled to full pay and allowances irrespective of the fact that he was reinstated in service or not as the order clearly states that he was to be reinstated in service forthwith.

After going through the affidavit of compliance we find that there is some discrepancy regarding payment made to the applicant by the respondents. In the affidavit of compliance it has been stated that in regard to back wages for the period from 21.01.2012 to 23.09.2020 a sum of Rs.20,23,840/- was payable to the applicant and after deducting Rs.1,92,137/- towards Income Tax and Education Cess a sum of Rs.16,55,328/- has been credited in applicant's account, however, if we add the amount credited in account and deducted, the figure will come Rs.18,47,465/- only.

Respondents are, therefore, directed to file a better affidavit of compliance after making complete compliance of the order as stated above within two months from today.

List on **18.08.2022**.

Let copy of this order be given to the Ld. Counsel for the respondents/  
AFT Legal Cell for compliance.

**(Vice Admiral Abhay Raghunath Karve)**  
Member (A)

**(Justice Umesh Chandra Srivastava)**  
Member (J)

AKD/-



**Form No. 4**  
**{See rule 11(1)}**  
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**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**  
**Court No.1**

**Ex. A. No. 2 of 2021 with M.A. No. 180 of 2021 Inre : O.A. (A) No. 98 of 2014**

**Lt. Col. Subhash Chandra Pandey**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><b><u>19.05.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p style="text-align: center;">Heard Shri Bhanu Pratap Singh Chauhan, Ld. Counsel for the applicant and Shri Kaushik Chatterjee, Ld. Counsel for the respondents.</p> <p style="text-align: center;">Shri Kaushik Chatterjee, Ld. Counsel appearing on behalf of the respondents, on instruction received, submits that in compliance of the order Government Sanction has been accorded for payment of 50% back wages for the period applicant was out from service. He further submitted that regular salary from 14 February 2022 to April, 2022 have been paid to the applicant vide UTR SBIN 222131176072 dated 11.05.2022. He also ensure that entire arrears along with interest would be credited in applicant's account by the end of June, 2022.</p> <p style="text-align: center;">In view of the above, respondents are directed to file affidavit of compliance annexing therewith statement of account including calculation sheet by the second week of July, 2022.</p> <p style="text-align: center;">List on <b>18.07.2022</b>.</p> <p style="text-align: center;"><b>(Vice Admiral Abhay Raghunath Karve)</b> Member (A)</p> <p style="text-align: center;"><b>(Justice Umesh Chandra Srivastava)</b> Member (J)</p> <p>AKD/-</p>









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**Court No.1**

**Ex. A. No. 03 of 2022 Inre : Ex. A. No. 234 of 2018 Inre : O.A. No. 248 of 2015**

<b>Smt. Malti Devi W/o (Late) Hav. Deo Lakhan Prasad</b> By Legal Practitioner for the Applicant	Applicant
<b>Versus</b>	
<b>Union of India &amp; Others</b> By Legal Practitioner for Respondents	Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>		
	<p><b><u>19.05.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p style="text-align: justify;">On the case being taken up for hearing Shri Manoj Kumar Awasthi, Ld. Counsel for the applicant, Shri Amit Jaiswal, Ld. Counsel for the respondent Nos. 1 to 5 and Shri Yogesh Chandra Bhatt, Ld. Counsel for the respondent Nos. 6 and 7 are present.</p> <p style="text-align: justify;">On the request of Ld. Counsel for the respondent Nos. 6 and 7 three weeks further time is granted to file affidavit of compliance annexing therewith statement of account of the applicant and calculation sheet of the payment made to the applicant as arrears.</p> <p style="text-align: center;">List on <b>04.08.2022</b>.</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; text-align: center;"><b>(Vice Admiral Abhay Raghunath Karve)</b> Member (A)</td><td style="width: 50%; text-align: center;"><b>(Justice Umesh Chandra Srivastava)</b> Member (J)</td></tr></table> <p style="text-align: left; margin-top: 10px;">AKD/-</p>	<b>(Vice Admiral Abhay Raghunath Karve)</b> Member (A)	<b>(Justice Umesh Chandra Srivastava)</b> Member (J)
<b>(Vice Admiral Abhay Raghunath Karve)</b> Member (A)	<b>(Justice Umesh Chandra Srivastava)</b> Member (J)		













**Form No. 4**  
**{See rule 11(1)}**  
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**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**  
**Court No.1**

**Ex. A. No. 92 of 2022 Inre : O.A. No. 417 of 2020**

**Ex. Sub. Maj. Sheo Govind Verma**  
By Legal Practitioner for the Applicant

Applicant

**Versus**

**Union of India & Others**  
By Legal Practitioner for Respondents

Respondents

<b>Notes of the Registry</b>	<b>Orders of the Tribunal</b>
	<p><b><u>19.05.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p style="text-align: center;">Affidavit of compliance filed by the respondents is taken on record.</p> <p style="text-align: center;">Heard Shri R. Chandra, Ld. Counsel for the applicant and Dr. Gyan Singh, Ld. Counsel for the respondents assisted by Shri Rajeev Tiwari, Accounts Officer, PCDA (Pension), Prayagraj.</p> <p style="text-align: center;">It is submitted by the Ld. Counsel for the respondents that four weeks further time be granted to file affidavit of compliance as Government Sanction in the matter is still awaited.</p> <p style="text-align: center;">List on <b>20.07.2022</b>.</p> <p style="text-align: center;"><b>(Vice Admiral Abhay Raghunath Karve)</b> Member (A)</p> <p style="text-align: center;"><b>(Justice Umesh Chandra Srivastava)</b> Member (J)</p> <p>AKD/-</p>







By Circulation

Form No. 4  
{See rule 11(1)}  
ORDER SHEET

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

R.A. No. 42 of 2022 Inre : O.A. No. 352 of 2022

Ex. Sgt. Rakesh Kumar Singh  
By Legal Practitioner for Applicant

Applicant

Versus

Union of India and Others  
By Legal Practitioner for Respondents

Respondents

Notes of the Registry	Orders of the Tribunal
	<p><b><u>19.05.2022</u></b> <b><u>Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)</u></b> <b><u>Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)</u></b></p> <p>The file has been placed before us by Circulation.</p> <p>The Review Applicant has filed this application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 by which applicant has prayed for review and setting aside the order dated 24.03.2022 of this Tribunal passed in Original Application No. 352 of 2021 by which the Original Application has been dismissed.</p> <p>The operating portion of the order reads as under:-</p> <p style="text-align: center;"><i>"In the circumstances when applicant was discharged, Release Medical Board has held that applicant has been found fit to be released in Category A4G1 with no disability detected or claimed, we find that applicant's claim for the grant of disability pension is not maintainable.</i></p> <p style="text-align: center;"><i>In the result, Original Application is dismissed.</i></p> <p style="text-align: center;"><i>Misc. Application, if any, pending for disposal, shall be treated to have been disposed of."</i></p> <p>It is a settled proposition of law that the scope of the review is limited and until it is shown that there is error apparent on the face of record in the judgment and order sought to be reviewed, the same cannot be reviewed. For ready reference, Order 47, Rule 1 sub-rule (1) of the Code of Civil Procedure, 1908 is reproduced below :-</p> <p><i>"1. Application for review of judgment.- (1) any person considering himself aggrieved-</i></p> <p style="margin-left: 40px;"><i>(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,</i></p> <p style="margin-left: 40px;"><i>(b) by a decree or order from which no appeal is allowed, or</i></p> <p style="margin-left: 40px;"><i>(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter 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 decree was passed or order made, or on account of some mistake or error apparent on the face of the record , or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order."</i></p>

In view of the principles of law laid down by the Hon'ble Supreme Court in various decisions, it is settled that the scope of review jurisdiction is very limited and re-hearing is not permissible. The Hon'ble Supreme Court in Para 9 of its judgment in the case of ***Parsion Devi and others vs. Sumitri Devi and others***, reported in (1997) 8 Supreme Court Cases 715, has observed as under :-

*"9. Under Order 47, Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. 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 the record justifying the court to exercise its power of review under Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise."*

We have gone through the judgment and order sought to be reviewed and no illegality or irregularity or error apparent on the face of record being found therein, we are of the view that there is no force in the grounds taken in the review application so that order may be reviewed.

In the result, Review Application is **rejected**.

(Vice Admiral Abhay Raghunath Karve)  
Member (A)

(Justice Umesh Chandra Srivastava)  
Member (J)

AKD/-































































