By Circulation
Court No. 1

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Review Application No. 40 of 2021

Alongwith M.A. No. 467 of 2021

(Inre O.A. No. 28 of 2019)

Tuesday, the 10th day of August, 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Ex Sub Maj Subhash Chandra
S/o Shri Same Singh
R/o 11C, Hari Nagar, PO Krishna Nagar,
Mathura (UP)

..... **Applicant**

Ld. Counsel for the Applicant : **Shri K.K. Misra,** Advocate.

Versus

1. Union of India, through its Secretary, Ministry of Defence, New Delhi.
2. Chief of the Army Staff, Army Headquarters, New Delhi.
3. Officer-in-Charge Records, The JAT Regiment, Bareilly (UP).
4. PCDA (P), Draupadi Ghat, Allahabad.

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..... **Respondents**

Ld. Counsel for the Respondents:**Dr. Shailendra Sharma Atal**, Central Govt Counsel.

ORDER

1. The applicant has filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008. By means of this Review Application, the applicant has prayed that "*this Hon'ble Tribunal may graciously be please to review its order in the interest of justice and grant disability pension to the applicant".*

2. The matter came up before us by way of Circulation as per provisions of Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008, whereby the applicant has prayed for review the order dated 03.06.2021 passed in O.A No. 28 of 2019, by means of which this Court had dismissed the Original Application as the applicant had prayed for grant of disability pension which is below 20%.

3. As per office report, there is no delay in filing the Review Application but an application for condonation of delay (M.A. No. 467 of 2021) has been moved by the applicant which is dismissed.

4. We have gone through the grounds and reasons indicated in the review application and have also gone through the judgment and order sought to be reviewed. The judgment and order sought to be reviewed was passed in proper prospective after considering all the facts and circumstances and also in view of the several pronouncement of the Hon'ble Apex Court. No illegality or irregularity or error apparent on the face of record has been shown to us so as to review the aforesaid judgment of this Court.

5. That apart, 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 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 is reproduced below :-

> "***1. Application for review of judgment****.- (1) any person considering himself aggrieved-*
>
> > *(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*
> >
> > *(b) by a decree or order from which no appeal is allowed, or*

> *(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."*

6. Law is settled on the point that the scope of review is very limited. It is only when there is an error apparent on the face of record or any fresh fact/ material brought to notice which was not available with the applicant inspite of his due diligence during hearing. Review is not an appeal in disguise. It is nowhere within the scope of review to recall any order passed earlier and to decide the case afresh.

7. 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. Hon'ble the 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."*

8. In the instant case, the details mentioned in the review application had already been taken into consideration and discussed in detail and thereafter, the order was passed. In view of the principle of law laid down by Hon'ble the Apex Court in the case of **Parsion Devi and Others** (supra), we are of the considered view that there is no error apparent on the face of record in the impugned order dated 03.06.2021, passed in O.A. No. 28 of 2019, which may be corrected in exercise of review jurisdiction.

9. Accordingly, Review Application No. 40 of 2021 is hereby **rejected.**

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated : 10th August, 2021
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