

**By Circulation  
Court No. 1**

ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW

**Review Application No. 105 of 2016**

**In Re: Dy-No 2628 of 2016 in O.A. No. Nil of 2016**

Wednesday, the 7<sup>th</sup> day of December, 2016

**Hon'ble Mr. Justice Abdul Mateen, Member (J)**

**Hon'ble Lt Gen Gyan Bhushan, Member (A)**

Ex Cadet Abhilash Yadav No 36703, S/O Sh. Virendra Pal Singh,  
R/O Village – Sarai Sunder Pur, P.O. – Bithoura Kalan, District –  
Pilibhit U.P. PIN 262001.

.....Applicant

Versus

1. Union of India through its Secretary, Ministry of Defence,  
South Block, New Delhi 110011.
2. The Chief of Army Staff, Integrated HQs of MOD (Army)  
Post – DHQ, New Delhi - 110011.
3. Director, Additional Directorate, General Personnel Branch,  
Adjutant General's Branch, Integrated HQ of MOD (Army),  
DHQ, New Delhi.
4. The Commandant, National Defence Academy,  
Khadakwasla, Pune Maharashtra.
5. Director General of Medical Services (Armed Forces),  
Room No. 60, Ministry of Defence, "M" Block, New Delhi  
– 110011.
6. The Principal Controller of Defence Accounts (Pensions),  
Draupadi Ghat Allahabad 211014.

..... Respondents

**ORDER**

1. The applicant has filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008. The matter came up before us by way of Circulation as per provisions

of Rule 18 (3) of the Armed Forces Tribunal (Procedure) Rules, 2008. Whereby the applicant has claimed following reliefs :-

*“(i) To allow the review application by reviewing the Judgment and Order dated 27.09.2016 passed by his Lordship Hon’ble Mr. Justice Abdul Mateen, Member (J) & Hon’ble Lt Gen Gyan Bhushan, Member (A) in a proper prospective after considering all the facts & circumstances and pass a fresh and final judgment and order as this Hon’ble Tribunal may deem fit, proper and just in the eyes of law in the interest of justice otherwise the applicants will suffer irreparable loss and injury.*

*(ii) To issue an order or direction that this Hon’ble Tribunal may deem fit and proper under the facts and circumstances of the case.”*

2. By means of this application, the applicant has prayed to review the order dated 27.09.2016 passed in Dy No 2628 of 2016 In Re O.A. No. Nil of 2016 by this Court and pass a fresh and final order.

3. 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 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.”*

4. 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."*

5. We have gone through the grounds and reasons indicated in the affidavit filed in support of the application and have also gone through the order sought to be reviewed. The order sought to be reviewed was passed in proper prospective after considering all facts & circumstances of the case. No illegality or irregularity or error apparent on the face of record has been shown so as to review the aforesaid order of this Court. We are of the considered view that there is no error apparent on the face of record in the impugned order dated 27.09.2016, which may be corrected/reviewed by us in exercise of our review jurisdiction.
6. Accordingly, Review Application No. 105 of 2016 is rejected.

**(Lt Gen Gyan Bhushan)**  
**Member (A)**  
Dec 2016

**(Justice Abdul Mateen)**  
**Member (J)**  
Dec 2016

RS/