

BY CIRCULATION

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court No. 1

**M.A. No. 130 of 2016 with Review Application No 05 of 2016
(Inre : O.A. No. 184 of 2014)**

Tuesday this the 9th day of February, 2016

**“Hon’ble Mr. Justice Virendra Kumar DIXIT, Judicial Member
Hon’ble Lt Gen Gyan Bhushan, Administrative Member”**

Ex Nk Inder Singh (No 15113628H)

Son of Shri Meha Singh, Aged about 41 years R/o Village-Lima, Post Office-Jaurasi, Tehsil-Didihat, District-Pithoragarh, State-Uttaranchal

- Review Applicant

Versus

1. Union of India, through, the Secretary,
Ministry of Defence, Government of India, New Delhi
2. Chief of the Army Staff, Army Headquarters, DHQ Post Office,
New Delhi
3. The Officer-In-Charge, Army Air Defence Records
Pin-909903
C/o 56 APO
4. Commanding Officer
Lt AD Regt PIN-928157
C/o 56 APO

- Respondents

Ld. Counsel for the applicant - Shri R. Chandra
Advocate

Ld. Counsel for the respondents - Shri Bhanu Pratap Singh Chauhan
Central Government Counsel

ORDER

1. The applicant has filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 alongwith an application for condonation of delay. The matter came up before us by way of Circulation as per provisions of Rule 18 (3) of the AFT (Procedure) Rules, 2008 whereby the applicant has prayed *“that the Hon’ble Tribunal may be pleased to recall the order dated 04.09.2014 passed in O.A. No. 184 of 2011 and after restoring the O.A. in its Original Number for continue proceedings on merit in the interest of justice.”*

2. Original Application No 184 of 2014 was disposed of by this Bench vide order dated 04.09.2014.

3. From perusal of record, it transpires that there is delay of 01 year, 03 months and 13 days in filing the Review Application. An application for condonation of delay has been moved by the applicant. We have gone through the delay condonation application and find that the grounds shown in the accompanying affidavit does not seem to be genuine and the application is liable to be rejected.

4. Moreover, we have also gone through the Review Application and perused the relevant records, including the impugned order.

5. It is settled proposition of law that the scope of the review is limited and the applicant has to show that there is error apparent on the face of the record. For ready reference the 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 by this Code, 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 of the Court which passed the decree or made the order.”*

6. 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 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."

7. 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 04.09.2014, which may be corrected in exercise of review jurisdiction.

8. Accordingly, the application for condonation of delay as well as Review Application No. 05 of 2016 is rejected. There shall be no order as to costs. The Applicant may be informed accordingly.

(Lt Gen Gyan Bhushan)
Administrative Member

(Justice Virendra Kumar DIXIT)
Judicial Member

Dated : February, 2016
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