

By Circulation  
Court No. 1

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**

**Review Application No. 14 of 2019**

**(Inre O.A. No. 450 of 2017)**

Monday, the 05<sup>th</sup> day of February, 2019

**Hon'ble Mr. Justice S.V.S.Rathore, Member (J)**  
**Hon'ble Air Marshal BBP Sinha, Member (A)**

Ex Sepoy Suresh Singh, S/O Kanti Singh, R/O Kutubpur,  
PO – Jakheta, District – Bulandshahar (U.P.)

..... Applicant

By Legal Practitioner – **Shri K K Mishra,**  
**Learned counsel for the Applicant**

Versus

1. Union of India, Through its Secretary,  
Ministry of Defence, New Delhi.
2. Chief of Army Staff, Army HQs, New Delhi.
3. Officer-in-Charge, Records, The JAT Regt, PIN – 900496,
4. PCDA (P), Allahabad

**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 made following prayer:-

*“(i). To direct the respondents to grant 20% disability pension to the applicant from Sep 2005, from the date it was stopped by PCDA (P), Allahabad.*

(ii). *To direct the respondents to round of this disability pension to 50% as per the policy on the subject and thereafter pay the arrears of pension with interest.*

(iii). *Any other relief which the Hon'ble Tribunal may consider appropriate may be granted in favour of the applicant.*

(iv). *Cost of the application be awarded to the applicant."*

2. 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 prayed for review the order dated 09.01.2019 passed in O.A No. 450 of 2017. In the aforesaid O.A., following order was passed:-

*"12. Thus the law is clear that if the disability percentage reduces below 20% in Review Medical Board then the disability element of disability pension can be stopped. However, the service element of disability pension shall continue for life. A conceptuous of our observations made hereinabove is that the applicant has failed to make out a case in his favour for granting disability element of disability pension beyond 01.10.2005. Hence we don't find anything wrong or illegal in the rejection of his disability element of disability pension beyond 01.10.2005.*

*13. Accordingly, the Original Application No 450 of 2017 having no force is hereby dismissed."*

3. In this case, the disability of the applicant was assessed less than 20% i.e. 1-5%. The claim of disability element of the applicant was rejected in view of the judgment of Hon'ble Apex Court in the case of **Balbir Singh Vs UOI & Others** in Civil Appeal No 3086 of 2012, decided on 08.04.2016. Accordingly, his disability element has correctly been stopped and there is nothing wrong or illegal in the rejection of his disability element of disability pension beyond 01.10.2005.

4. 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.”

5. It is well settled proposition of law that the scope of review jurisdiction is very limited and re-hearing in the garb of review 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 :-

1. “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."*

6. The judgment and order sought to be reviewed has been passed in proper prospective after considering all the facts and circumstances of the case. No error apparent on the face of record has been shown so as to review the aforesaid judgment of this Court. 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 09.01.2019, which may be corrected in exercise of review jurisdiction.

7. Accordingly, the Review Application No. 14 of 2019 is rejected. There shall be no order as to costs. The Applicant may be informed accordingly.

**(Air Marshal BBP Sinha)**  
**Member (A)**

**(Justice S.V.S. Rathore)**  
**Member (J)**

Dated : February, 2019  
ukt/-