

**By Circulation
Court No. 1**

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

**M.A. No 2398 of 2016
with
Review Application No. 101 of 2016
(O.A. No.03 of 2014)**

Wednesday, the 2nd day of November , 2016

**Hon'ble Mr. Justice Abdul Mateen, Member (J)
Hon'ble Lt Gen Gyan Bhushan, Member (A)**

1. The Union of India through Secretary, Ministry of Defence, South Block, R.K.Puram, New Delhi-110011.
2. The Chief of Army Staff Integrated Head Quarter Ministry of Defence (Army), New Delhi.
3. The Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Allahabad (U.P.).
4. Office In Charge, ASC Records (South), Bangalore-07.

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Applicants

By Legal Practitioner – Shri Avadhesh Narain Tripathi,
Learned Counsel for the Applicants.

Versus

No 13826566M Ex Hav (Honorary Naib Subedar) Kishan Ketheria s/o Late Phool Chand, Resident of H.N.828 Sadar Bazar Cantt Bareilly, P.O. Sadar Bazar Cantt. District Bareilly, U.P.

.....Respondent

ORDER

1. The applicants have 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 Armed Forces Tribunal (Procedure) Rules, 2008, whereby the applicants have prayed

“that the Hon’ble Tribunal may be pleased to modify the judgment and order dated 22.12.2015 passed in O.A.No.03 of 2014 that the applicant shall be entitled for the arrear of pension w.e.f. August 2013 till the date of the decision rendered in O.A.No.03 of 2014”.

2. As per stamp reporter’s report, the application is delayed by 08 months and 26 days. Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 postulates that no application shall be entertained beyond the period of thirty days from the date of receipt of copy of the order sought to be reviewed. Review Application No.101 of 2016 seeks review of the judgment and order dated 22.12.2015 passed in O.A. No. 03 of 2014 by the Bench comprising of (Justice Virendra Kumar Dixit Member (J) (since retired) and one of us Lt Gen Gyan Bhushan Member (A). Admittedly, the Review Application has been filed beyond the period of 30 days; as such it is not entertainable.

3. We have also gone through the grounds and reasons indicated in the affidavit filed in support of the application for condonation of delay. In our considered opinion, the grounds urged in support of the application do not appear to be germane; rather they are casual in nature and each day’s delay has not been explained.

4. The Hon’ble Supreme Court in **Office of the Chief Post Master General and others vs. Living Media India Ltd and another** reported in **2012 STPL (LE) 46200 SC** has observed as under :

“Condonation of delay is an exception and should not be used as an anticipated benefit of government departments” and since “the claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.”

The Hon’ble Supreme Court further observed as under :

“Since the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings.”

In view of the aforesaid observation, the application for condonation of delay (M.A. No. 2398 of 2016), therefore, has no force.

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 judgment and order sought to be reviewed, the same cannot be reviewed.

6. We have also gone through the judgment and order sought to be reviewed and the Review Application, which is time-barred. Even from the grounds taken therein, no illegality or irregularity or error apparent on the face of record has been placed, so as to review the aforesaid judgment of this Court. We are of the considered view that there is no error apparent on the face of record in the impugned judgment and order dated 22.12.2015, which may be corrected/reviewed in exercise of review jurisdiction.

7. Accordingly, the application for condonation of delay is rejected; as such, in consequence thereof, review application is also rejected.

(Lt Gen Gyan Bhushan)
Member (A)

02nd Nov., 2016

PKG/

(Justice Abdul Mateen)
Member (J)

02nd Nov., 2016