

**Chambers**  
**(By circulation)**

**Review Application No. 97 of 2016**

**In re :**

**O.A. No. : 214 of 2010**

**Union of India & Others - Applicants**  
**Vs.**  
**Smt. Maisar Bano - Respondent**

**Hon'ble Mr Justice D.P.Singh, Judicial Member**

**Hon'ble Air Marshal Anil Chopra, Administrative Member**

**Order**

1. The application has been placed in chamber by the registry under the provisions contained in AFT Act and Rules framed thereunder.
2. This is an application for review of the order dated 11.08.2016, passed in O.A. No. 214 of 2010. While preferring the instant review application, the applicants have tried to assail the order on certain facts, which were neither pleaded nor argued during the course of hearing of original application. Our attention has also been invited to certain documents which were not brought in our notice during the course of hearing while advancing the arguments. It has been submitted that due to slackness on the part of the applicant of the original application delay caused in granting family pension. The applicants of the review application tried to assail the order inviting our attention to certain new grounds which seem to be not

permissible under the jurisdiction of review. The applicants are also aggrieved by the grant of maximum of costs by the Tribunal.

3. We have recorded the finding after going through the statutory provisions as well as the pleadings on record, wherein the Tribunal interpreted the relevant provisions by recording the finding. It is not open to re-appreciate the same under the jurisdiction of review. Hon'ble Supreme Court in catena of its decisions has held that where the controversy involved is relating to payment of pension, quick and an early steps will be taken so that the pensioner or his widow/spouse may not suffer any financial hardship. While preferring the review, the applicants have tried to set up a new case, which was not pleaded in original application during the pendency of same.

4. Any other attempt of Court except an attempt to correct an apparent error or an attempt not based on any ground mentioned in Order 47 Rule 1 and 2 CPC, would amount to an abuse of power to review its judgment, vide, (1999) 9 SCC 596 Ajit Kumar Rath, Vs. State of Orissa.

5. Power of review conferred on the Court may be exercised when error is apparent at the face of record under Order 47 Rule 1 and 2 of CPC. It is the statutory power conferred on Court. It is neither inherent power nor a power to reappreciate the evidence, vide (2000) 6 SCC 224: Lily Thomas Vs. Union of India.

6. It must be borne in mind that review is perfectly distinguished from an appeal i.e.; quite clear from statutory provision (Order 47 Rule 1 of CPC) that the primary intention of granting a review is the reconsideration of the same subject by the same Judge as contra-distinguished to an appeal which is a hearing before another

Tribunal, vide (2005) 2 SCC 334 Ishwar Singh, Vs. State of Rajasthan....

7. In sum and substance, review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error where without any elaborate argument one could point to the error and say here is a substantial point of law which states one in the face, and there could reasonably be no two opinion entertained about it, a clear case of error apparent on the face of the record would be made out vide, (2006) 4 SCC 78 Haridas Das. Vs. Usha Rani Banik.

8. In (2008) 9 SCC 612: State of west Bengal and others. Vs. Kamal Sen Gupta, their lordships of Hon'ble Supreme Court held that error apparent at the face of record means mistake which prima facie is visible and does not require any detail examination

9. In (1995) 1 SCC 170: Meera Bhanja (Smt.). Vs. Nirmala Kumari Chaudhary (Smt.) followed by (1997) 8 SCC 715: Parsion Devi Vs Sumitri Deviu, their lordships of Honible Supreme Court held that power of review does not mean to exercise de novo hearing except the error apparent at the face of record in view of Order 47 Rule 1 of CPC.

10. In JT 2012 (12) SC 565: Akhilesh Yadav Vs. Vishwanath Chaturvedi and others, their lordships of Hon'ble Supreme Court held that an erroneous decision in itself does not warrant a review of each decision in absence of error apparent at the face of record.

11. Subject to aforesaid propositions of law, so far cost is concerned, it is incorrect to say that only High Court under Article 226 of the Constitution may impose costs and the maximum limit

with regard to cost of the Tribunal is Rs.3,000/-. The pleadings on record seem to be based on misconceived notion.

12. The reported judgments referred to in our order are all of Hon'ble Apex Court, passed by their Lordships of Hon'ble Supreme Court broadly exercising jurisdiction under Article 131 of the Constitution and not under Article 226 or writ jurisdiction. The verdict or opinion of the Apex Court is binding under Article 141 and hence the cost may be awarded keeping in view the facts and circumstances of each case, unless barred by statutory mandate.

13. Section 18 of the Armed Forces Tribunal Act, 2007 deals with the jurisdiction of the Tribunal to impose cost. For convenience Section 18 is reproduced below :

*"18. Cost.- While disposing of the application under section 14 or an appeal under section 15, the Tribunal shall have power to make such order as to costs as it may deem just. "*

14. A plain reading of the statutory provision, contained in section 18 of the Armed Forces Tribunal Act, 2007 shows that while deciding an application under section 14 or an appeal under section 15, the Tribunal has power to make such an order as to costs, as it may deem just. The Legislature to their wisdom has left this discretion to the Tribunal, which may exercise the same, keeping the facts and circumstances of each case and the plight suffered by the litigants, where they are compelled to approach the Tribunal/ Court for justice.

15. As observed, the jurisdiction conferred under review is not an appellate jurisdiction under the guise of review. No de novo hearing or re-appreciation of evidence is permissible, except where there is

error apparent on the face of record, following the principles laid down for reviewing the order under Order-47, Rule-1 of the Code of Civil Procedure, 1908.

16. Review lacks merits and is rejected.

17. There shall be no orders as to costs.

**(Air Marshal Anil Chopra)**  
**Member (A)**

**(Justice D.P. Singh)**  
**Member (J)**

**Date : October 4th, 2016**

JPT/

