

ARMED FORCES TRIBUNAL REGIONAL BENCH, LUCKNOW**Review Application No. 30 of 2021 with M.A No. 403 of 2021****In Re: O.A. No. 556 of 2019**

Friday, the 3rd day of September, 2021

**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”**

1. Union of India, through Secretary, Ministry of Defence, Government of India, New Delhi -110011.
2. Additional Director General Personnel Services, Adjutant General's Branch / PS-4 (Imp-I), Integrated Headquarters of Ministry of Defence (Army), Plot No. 108 (West), Brassey Avenue, Church Road, New Delhi-110001.
3. Appellate Committee of First Appeal through its Chairman, MP 5 and 6, Integrated Headquarters of Ministry of Defence (Army), West Block, RK Puram, New Delhi-110066.
4. Principal Controller of Defence Accounts (Pension), Draupadi Ghat, Prayagraj - 211014.

..... Applicant- Respondents

Versus

IC42621A Col Rajesh Dhar (Retd)

.....Respondent-Applicant

The file has been placed before us by Circulation.

M.A. No. 403 of 2021

As per office note there is no delay in filing Review Application, hence delay condonation application is dismissed being not required.

R.A. No. 30 of 2021

The respondents - applicant has filed this application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 by which applicants have prayed for review of the order dated 02.03.2021 passed by this Tribunal in Original Application No. 556 of 2019 *inter alia* on the ground that there is error apparent on the face of record in the order by which applicant has been granted disability pension to the tune of 50% whereas his first appeal preferred against rejection disability pension claim was pending.

We have gone through the order dated 02.03.2021 as well as the documents available on record. We find that disability pension claim was rejected vide order dated 28.06 2016. First appeal preferred on 30.07.2016 by the applicant against rejection of initial disability pension claim was neither decided nor any evidence to this effect is on record. Therefore, there is no effect on the order dated 02.03.2021 passed by this Tribunal.

Further, 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, 1908 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.”

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. The Hon'ble 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."

We have gone through the order sought to be reviewed and no illegality or irregularity or error apparent on the face of record being found therein, we are of the view that there is no force in the grounds taken in the review application so that order may be reviewed.

In the result, Review Application is **rejected**.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

Dated : September, 2021
rspal*

(Justice Umesh Chandra Srivastava)
Member (J)