

ARMED FORCES TRIBUNAL REGIONAL BENCH, LUCKNOW**Review Application No. 43 of 2018****In Re: O.A. No. 235 of 2016**Tuesday, the 14th day of August, 2018**“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)
Hon’ble Air Marshal B.B.P. Sinha, Member (A)”**Dheerendra Pal Singh (No. 14671505) S/o Shri Devendra Pal Singh,
R/o Vill – Abupur, Post – Ase, District – Aligarh (U.P.)**- Review Applicant**

Versus

1. Union of India and others through The Secretary Ministry of Defence,
New Delhi- 110011.
2. Chief of the Army Staff, Integrated HQ of MoD (Army)
DHQ PO, New Delhi- 110011
3. Commanding Officer, 512 ARMY Base Workshop, South Block, DHQ,
PO New Delhi – 110011.
4. Battalion Commander Military Wing, 512 Army Base Workshop, Khadki,
Pune, Maharashtra.
5. Zila Sainik Board, District – Aligarh U.P.)

- RespondentsLd. Counsel for the applicant **- Shri V.A. Singh, Advocate**Ld. Counsel for the respondents **- Shri Namit Sharma,
Central Government Counsel**

ORDER

1. The applicant has filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008. 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 made following prayer to review the order dated 12.07.2018 passed in O.A. No 235 of 2016:-

(i) To review the part of order dated and review the points as above stated, allow the application as prayed in the Original Application.

(ii) To review the part of Order dated and review the points as above stated with full back wages- from date of surrender till pensionable date with bank interest of 09% pm -21/09/2013 till 24/04/2020.

(iii) To review the part of Order dated and review the points as above stated, and allow the OA with exemplary cost of Rs/- 2,00,000/- (two lakhs only).

2. By means of this application, the applicant has prayed to review its judgment and order dated 12.07.2018 passed in O.A. No. 235 of 2016.

3. We have gone through the grounds and reasons indicated in the affidavit filed in support of the application and have also gone through the judgment and order sought to be reviewed. The judgment and order sought to be reviewed was passed in proper prospective after considering all the facts and circumstances. No illegality or irregularity or error apparent on the face of record has been shown to us so as to review the aforesaid judgment of this Court.

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. Learned counsel for the review applicant has mentioned some case laws in support of his application. We have also gone through the said case laws. Since the facts of these cases were entirely different, hence the applicant is not entitled to the benefit of said case laws.

6. This Tribunal has passed the following order while disposing of the O.A. :-

*“17. Accordingly, this O.A. deserves to be partly allowed and is hereby **partly allowed**. The impugned orders dated 07.07.2016 and 20.10.2014 passed by the respondents are set aside. The applicant shall be notionally treated to be in service till he attains pensionable service, thereafter, he shall be entitled to post retiral benefits in accordance with law. However, he shall not be entitled to the back wages for the said period on the principle of ‘no work no pay’, but shall be entitled for service pension of the rank last held by him. The respondents shall calculate the pension of the applicant from the date of his notional discharge after acquiring pensionable service.*

The respondents are directed to complete this exercise within a period of six months from today, failing which the applicant shall be entitled to interest @ 9% per annum on the total amount accrued from due date till the date of actual payment.”

7. Thus applicant was held entitled only to pension benefits hence he is not entitled to back wages which has been specifically denied to him on the ground of 'no work and no pay.'

8. 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."

9. 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 12.07.2018, which may be corrected in exercise of review jurisdiction.

10. Accordingly, the Review Application No. 43 of 2018 is rejected. There shall be no order as to costs. The Applicant may be informed accordingly.

(Air Marshal BBP Sinha)
Member (A)

Dated : August, 2018

ukt/-

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

