

BY CIRCULATION**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****REVIEW APPLICATION NO: 24 of 2018****In re: (O.A. No. : 411 of 2017)****Monday, this the 02nd day of April, 2018****“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)
Hon’ble Air Marshal BBP, Sinha, Member (A)”****Nk Tribhuvan Shankar Singh (Army No. 13880436A) Son of Late
Laxmi Kant Singh Resident of Village – Dharsona, Post –
Cholapur District – Varanasi, PIN – 221101 Applicant****Ld. Counsel for the : Col Y.R. Sharma (Retd), Advocate
Applicant****Versus**

1. Union of India Through Secretary Min of Defence New Delhi – 110011.
2. Chief of the Army Staff, IHQ of MoD (Army) South Block, New Delhi – 110011.
3. GOC in C, Central Command Lucknow – 226002.
4. Officer in Charge Records, ASC Records (South) Bangalore.
5. Principal Controller of Defence Account (Pension) Draupadi Ghat, Allahabad.
6. Commandant 39 Gorkha Training Centre, Varanasi Cantt.
7. Commanding Officer 504 ASC Battalion, C/O 56 APO.

-----Respondents**ORDER**

1. Present Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 has been preferred by the applicant

against order dated 16.02.2018 rendered in Original Application No. 411 of 2017. The matter came up before us by way of Circulation as per provisions of Rule 18 (3) of the AFT (Procedure) Rules, 2008.

2. A prayer for review of the order has been made challenging the order of this Tribunal passed on account of dismissal of the applicant who was a deserter from service for more than three years.

3. By means of O.A. the applicant had challenged his dismissal. After considering all the legal points raised at the time of arguments, this Tribunal dismissed the O.A. by a detailed order. Now applicant has again raised different new issues in this review application. The scope of review is very limited. On this point, I would like to refer to the legal position dealing with the scope of review application.

4. It is settled proposition of law that 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 re-appreciate 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 and others.***

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 detailed 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. In view of the above, the present application for review appears to be not sustainable and deserves to be rejected.

12. It is accordingly **rejected**.

13. Inform the learned counsel for the applicant accordingly.

(Air Marshal BBP Sinha)
Member (A)

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

Dated: April, 02,2018
BLY/-