

BY CIRCULATION**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW****REVIEW APPLICATION NO: 28 of 2018****In re: (O.A. No. : 254 of 2017)****Monday, this the 09th day of April, 2018****“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)
Hon’ble Air Marshal BBP Sinha, Member (A)”****No. JC-260595 –W Ex- Sub Narendra Singh, S/O – Late Vishal Singh, Resident of House No. 10-A/66, Vrindavan Yojna, Raibareli Road, Lucknow PIN - 226029 Applicant****Ld. Counsel for the : Shri Sudhir Kumar Singh, Advocate Applicant****Versus**

1. Union of India, through Secretary, Ministry of Defence, South Block, New Delhi - 110011.
2. Chief of Army Staff, Integrated Headquarters, Ministry of Defence (Army), DHQ Post Office, New Delhi – 110011.
3. Director General Arty, Integrated Headquarters, Ministry of Defence (Army), Sena Bhawan, New Delhi – 110011.
4. Officer – In-charge, Artillery Records, Topkhana Abhilekh, PIN - 908802 C/O – 56 APO.
5. PAO(OR), Artillery (NE), Lekha Nagar, Nasik - 09.

-----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 14.03.2018 rendered in Original Application No.

254 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. In the O.A. the applicant had made prayer for payment of interest on delayed payments of salary, gratuity and pension amount. By the order under review dated 14.03.2018 the O.A. of the applicant bearing No. 254 of 2017 was dismissed by a detailed order on the ground that the applicant had given the consent for recovery of the amount in question to the concerned authorities. The submission of the applicant that the aforesaid consent was given by him under coercion, was rejected by this Tribunal while dismissing the O.A.

3. By means of this review application the same ground raised by the applicant that he did not move any application giving his consent for recovery of the amount in question is not sustainable as he cannot raise same ground by way of review application since the scope of review is very limited and there is no error apparent on the face of record.

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 Devi & others**, their lordships of Hon'ble 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, 09,2018
BLY/-