

**BY CIRCULATION**

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

**M.A. No. 1938 of 2018**  
**(Application for Condonation of Delay)**

**Along with Review Application No 74 of 2018**  
**Inre**  
**M.A. No. 1804 of 2018**

Ex Sep Bir Pal	...	Applicant
	vs.	
Union of India & ors	...	Respondents

**Wednesday, this the 05<sup>th</sup> day of December, 2018**

**ORDER**

1. Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 has been preferred by the Applicant against judgment and order of the Armed Forces Tribunal, Regional Bench, Lucknow dated 23.10.2018 passed in M.A. No. 1804 of 2018 along with application for condonation of delay in preferring the Review Application. The matter came up before us by way of Circulation as per provisions of Rule 18 (3) of the AFT (Procedure) Rules, 2008.

2. By order dated 23.10.2018, the Application for condonation of delay in preferring the O.A. was rejected with the observation, "*Virtually the applicant has filed the instant O.A. for the same relief, which was prayed in the earlier O.A. by putting the prayer in different words, amounts to abuse of process of the law. Therefore, we hereby reject the application for condonation of delay with cost of Rs. 5000/- which has to be paid by the applicant within a period of one month from today, failing which the same shall be recovered from his arrears of land revenue.*" With the above observations, as a consequence thereto, the O.A. was also dismissed.

3. Office has reported that the Review Application has been filed with delay of 05days. Rule 18 (1) of aforesaid Rules provides thus:

*“18. Application for review.—(1) No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed.*

*(2) ....”*

4. A plain reading of Rule 18 (1) (supra) shows that no application for review shall be entertained after expiry of thirty days from the date of receipt of copy of the order. Thus, the present application for review of order dated 23.10.2018 is barred by limitation and deserves rejection on this count alone.

5. Hon’ble Supreme Court in various decisions has clearly laid down that the scope of Review jurisdiction is very limited and re-hearing is not permissible. Hon’ble Supreme Court has drawn a clear distinction between an erroneous decision and an error apparent on the face of the record. It has been laid down by Hon’ble Supreme Court that while the first can be corrected by the higher forum, the latter only can be corrected by exercise of the Review jurisdiction. In the case of *Parsion Devi and Others vs. Sumitri Devi and others* reported in (1997) 8 SCC 715 (Para 9) of the Judgment of the Hon’ble Supreme Court has observed that 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. In view of the principles of law laid down by Hon’ble Supreme Court in the case of *Parsion Devi and others* (supra), we do not find any error apparent on the face of the record in the impugned order which may be corrected in exercise of Review jurisdiction.

6. Moreover, the application for condonation of delay was rejected by order of this Tribunal dated 23.10.2018 after taking notice of several decisions of Hon’ble Supreme Court. The Tribunal had also taken into account the fact that the applicant had earlier approached this Tribunal by filing M.A. No. 257 of 2017 along with M.A. No.1055 of 2017 & M.A.No.1236 of 2017 along with O.A. with prayer to condone the delay in preferring the O.A. against order of discharge dated 13.11.1989. The earlier application for condonation of delay was rejected and consequently the O.A. was also dismissed on the ground of limitation vide

order dated 28.11.2017. It was observed in the order under Review dated 23.10.2017 that the applicant has filed the O.A. with similar relief which was earlier denied vide order 28.11.2017 by putting the prayer in different words, which amounts to abuse of process of law.

7. As a result of foregoing discussion, the application for condonation of delay as well as Review Application, being devoid of merit, are liable to be dismissed, hence **dismissed** accordingly.

8. The Applicants may be informed accordingly.

**(Air Marshal BBP Sinha)**  
**Member (A)**  
anb

**(Justice SVS Rathore))**  
**Member (J)**