

By Circulation
Court No. 2

ARMED FORCES TRIBUNAL REGIONAL BENCH, LUCKNOW

Review Application No. 01 of 2018

In Re: T.A. No. 1257 of 2010

Friday, the 19th day of January, 2018

**“Hon’ble Mr. Justice S.V.S. Rathore, Member (J)
Hon’ble Lt. Gen. Gyan Bhushan, Member (A)”**

No. 6387782-Y, Ex-Havildar RD Tripathi s/o Late Shri Raj Narayan Tripathi,
Resident of village & Post – Deheriywan, Tehsil – Bikapur, District – Faizabad (U.P.)

....Applicant

Versus

1. Union of India, through Ministry of Defence, South Block New Delhi, 110011.
2. Chief of the Army Staff, Integrated Headquarter of the Ministry of Defence (Army), South Block, New Delhi -110011.
3. General Officer Commanding-in-Chief, Central Command, Lucknow.
4. General Officer Commanding Uttar Bharat Area Bareilly.

.....Respondents

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 prayed the following relief in the interest of justice to:-

“(a) Issue/pass an order or direction of appropriate nature to the respondents to quash/set aside the entire disciplinary proceedings including pre-trial proceedings and GCM proceedings held on 8/9 May 2002 with all service and monetary consequences restoring status quo ante existing on 05.09.2000 because of no jurisdiction.

(b) To set aside/quash the order dated 18.04.2016 in T.A. No 1257 of 2010 (**Annexure No RA-10**) passed by the Armed Forces Tribunal Regional Bench Lucknow.

(c) *Issue/pass any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.*

(d) *Allow this application with costs.*”

2. By means of this application, the petitioner has prayed to review its judgment and order dated 18.04.2016 passed in T.A. No. 1257 of 2010 and pass a fresh and final order.

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 on 18.04.2016 in T.A. No. 1257 of 2010 by the Bench comprising of (Mr. Justice Abdul Mateen, Member (J) (since retired) and Hon'ble Lt Gen AM Verma, Member (A) (since retired) 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. 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."

6. 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 18.04.2016, which may be corrected in exercise of review jurisdiction.

7. Accordingly, the Review Application No. 01 of 2018 is rejected. There shall be no order as to costs. The petitioner may be informed accordingly.

(Lt Gen Gyan Bhushan)
Member (A)

Dated : January, 2018
RS/-

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