

**By Circulation**  
**(Court No. 2)**

**ARMED FORCES TRIBUNAL REGIONAL BENCH, LUCKNOW**

**Review Application No. 79 of 2023**

**In Re: O.A. No. 1067 of 2022**

Wednesday, the 03<sup>rd</sup> day of January, 2024

**“Hon’ble Mr. Justice Anil Kumar, Member (J)**  
**Hon’ble Maj Gen Sanjay Singh, Member (A)”**

Mrs Aarti Srivastava, W/o MR 07371L Late Col Ravindra Kumar Srivastava,  
Village-Adarsh Nagar, PO-Rosa, Tehsil-Sadar, Distt-Shahjahanpur, Uttar  
Pradesh-242306.

..... Applicant

Versus

1. Union of India through The Secretary, Government of India, Ministry of Defence, South Block, New Delhi-110011.
2. Chief of Army Staff, IHQ of MoD (Army), New Delhi-110011.
3. Integrated HQ of MoD (Army), Adjutant General’s Branch, Addl Dte Gen MP (P&P), Ord/MP-7/Adjudication Cell, West Block-III, RK Puram, New Delhi-110066.
4. The PCDA (Pension), Draupadi Ghat, Allahabad (UP)-211014.

.....Respondents

## ORDER

1. Applicant has filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 alongwith an application for condonation of delay. The matter came up before us by way of Circulation as per provisions of Rule 18 (3) of the Armed Forces Tribunal (Procedure) Rules, 2008.
2. As per office report, there is no delay in filing Review Application, therefore application for condonation of delay is dismissed being not required.
3. By means of this application, learned counsel for the applicant has prayed that this Hon'ble Tribunal may kindly be pleased to allow this Review Application by modifying the judgment and order dated 10.11.2023 passed by this Tribunal in Original Application No. 1067 of 2022, ***Mrs Aarti Srivastava Vs. Union of India & Others.***
4. O.A. No. 1067 of 2022 claiming Special Family Pension was dismissed vide order dated 10.11.2023 on the ground that there was no causal connection between death of applicant's husband and military duty. In regard to this, para 4 of Govt of India, Min of Def letter dated 31.01.2001 specifies that in case of death of an Armed Forces Personnel under the circumstances mentioned in category 'C', Special Family Pension shall be admissible to the families of such personnel provided that he was on bonafide military duty. In the case in hand, applicant's husband was at place of residence and not on bonafide military duty, therefore, claim for Special Family Pension has been rejected.
5. 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.”

6. 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."*

7. 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*** (supra), we are of the considered view that there is no error apparent on the face of record in the impugned order dated 10.11.2023, which may be corrected in exercise of review jurisdiction.
8. Accordingly, Review Application is rejected.
9. No order as to costs.

**(Maj Gen Sanjay Singh)**  
**Member (A)**  
Dated : 03.01.2024  
*rathore*

**(Justice Anil Kumar)**  
**Member (J)**