

ARMED FORCES TRIBUNAL REGIONAL BENCH, LUCKNOW**M.A. No. 342 of 2022****In Re: R.A. No. 25 of 2022****Inre O.A. No 518 of 2019**Thursday, the 07th day of July, 2022**“Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon’ble Vice Admiral Abhay Raghunath Karve, Member (A)”****Rishav Dubey**Applicant

Versus

Union of India & OrsRespondents**M.A. No. 342 of 2022**

1. This is an application to recall the order dated 09.03.2022 passed in Review Application No 25 of 2022 inre O.A. No. 518 of 2019 by which the review application has been dismissed.

2. Heard learned counsel for the parties.

3. Learned counsel for the respondents submitted that O.A. No. 518 of 2019 was dismissed on maintainability as well as on merit vide order dated 31.01.2022 and Review Application No 25 of 2022 has also been dismissed vide order dated 09.03.2022. He further submitted that once the matter has been decided, no application can be entertained as held by the Hon’ble Apex Court in order dated 25.02.198, ***State of Uttar Pradesh vs Brahma Datt Sharma and Anr***, AIR 1987 SCC 943. He pleaded for dismissal of application.

4. Learned counsel for the applicant pleaded that review application be recalled and decided afresh as grounds taken in review application have not been considered and review application was dismissed on the very ground on which the O.A. was dismissed.

5. We have perused the case law cited by learned counsel for the respondents and we find that this application is not maintainable in view of the aforesaid pronouncement. During the course of hearing learned counsel for the review applicant made a prayer to look into the matter again keeping in view of result pertaining to Nk/NA Ansal AS who scored 47 marks in second paper and was declared passed. In this regard we find that this point was not raised while filing the O.A. Further, result sheet produced by learned counsel for the

applicant is for the year 2016 in which on scoring 47 marks he was declared as passed but the applicant was declared failed in final attempt in the year 2020. We have been informed that pass percentage is regulated by Standing Operating Procedure of Institute of Paramedical Sciences (IPMS) and according to which pass percentage in the year 2020 is 50% in both the subjects.

6. We have considered the rival submissions of learned counsel for the parties and we find that the O.A. was dismissed on both the grounds i.e. being not maintainable and on merit. The applicant was required to score 50% marks in each paper as per para 25 of Standing Operating Procedure of Institute of Paramedical Sciences (IPMS) which was issued in regard to ROI 03/2014 whereas the applicant scored 47% marks in one of the papers and therefore, he was declared failed.

7. With the aforesaid observations, the application is **dismissed**.

8. No order as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

Dated : 07.07.2022
rathore

(Justice Umesh Chandra Srivastava)
Member (J)