

ARMED FORCES TRIBUNAL REGIONAL BENCH, LUCKNOW**Review Application No. 28 of 2023****In Re: O.A. No. 321 of 2019**Monday, the 1st day of May, 2023**“Hon’ble Mr. Justice Anil Kumar, Member (J)
Hon’ble Vice Maj Gen Sanjay Singh, Member (A)”**

No. JC-820359K Nb Sub (MP) Visarjan Singh Yadav, S/O Late Ramlagan Singh Yadav, R/o Vill & Post-Rasulpur Pachrashi, Distt-Ghazipur, Pin-233306 (U.P.), Presently posted in 101 Area Provost Unit, C/o 99 APO.

...Review Applicant

Versus

1. Union of India, through its Secretary, Min of Defence, New Delhi.
2. The Chief of Army Staff, South Block, New Delhi.
3. Commandant, 101 Area Provost Unit, PIN-908101, C/o 56 APO.
4. Officer-in-Charge Records, CMP, Bangalore-900493.

...Respondents

ORDER (ORAL)

1. The file has been placed before us by Circulation.
2. The applicant has filed this application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 by which applicant has prayed for review of the order dated 29.03.2023 passed by this Tribunal in Original Application No. 321 of 2019 *inter alia* on the ground that applicant was not granted rank of Subedar, Subedar Major and Honorary Lt/Capt similar to his batchmates and juniors as per seniority of promotion during his extended service periods from 01.09.2019 to 31.08.2021 with all consequential benefits and pay and allowances alongwith arrears.
3. We have gone through the aforesaid judgment and order dated 29.03.2023 and we find that the O.A. allowed granting two notional increments on the ground that applicant submitted his willingness for extension of service but it was not accepted by the respondents. We found that his willingness could have been conceded by the respondents as it was forwarded in time but delay had taken place in transit. Applicant’s claim that he

should be granted further rank of Subedar/Subedar Major and Honorary Lt/Capt is not tenable on the ground that he was not physically serving.

4. Further, it is settled proposition of law that the scope of the review is limited and until it is shown that there is error apparent on the face of record in the judgment and order sought to be reviewed, the same cannot be reviewed. For ready reference, Order 47, Rule 1 sub-rule (1) of the Code of Civil Procedure, 1908 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, 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 to 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. The Hon'ble 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 of 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. We have gone through the order sought to be reviewed and no illegality or irregularity or error apparent on the face of record being found therein, we are of the view that there is no force in the grounds taken in the review application so that order may be reviewed.

7. In the result, Review Application is **rejected**.

(Maj Gen Sanjay Singh)
Member (A)

(Justice Anil Kumar)
Member (J)

Dated : 21.03.2023
rathore

