

**By Circulation
Court No. 2**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW**

Review Application No. 51 of 2017

(T.A. No.83 of 2013)

Monday, the 30th day of October, 2017

Hon'ble Mr. Justice S.V.S.Rathore, Member (J)
Hon'ble Lt Gen Gyan Bhushan, Member (A)

Uma Shankar Pandey Hav 1387684F,
Son of R.P.Pandey,
R/o Kulmai, Post Office Pindi,
District Allahaba(U.P.).

..... Applicant

By Legal Practitioner – Shri R Chandra, Learned Counsel for the
Applicants.

Versus

1. Union of India through the Secretary,
Ministry of Defence,
Government of India,
New Delhi.

2. CO 504 ASC Battalion, Allahabad.

3. GOC 4 Infantry Division,
C/o 56 APO.

4. GOC-in-C, Central Command,
Lucknow.

.....Respondents

ORDER

1. The applicant has filed this Review Application under Rule 25 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 Armed Forces Tribunal (Procedure) Rules, 2008, whereby the applicant has prayed for review the order dated 13.09.2017 passed in T.A No.83 of 2013, by means of which this Court had directed the respondents to grant difference of pay and allowances between Naik and Havildar to the petitioner for the period from 31.03.1998 to 16.10.1999 within a period of four months from the date of receipt of a certified copy of the order.

2. We have gone through the grounds and reasons indicated in the Review Application. In our considered opinion, the grounds urged in support of the application do not appear to be germane.

3. That apart, it is a 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 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 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.”

4. Law is settled on the point that the scope of review is very limited. It is only when there is an error apparent on the face of record or any fresh fact/ material brought to notice which was not available with the applicant inspite of his due diligence during hearing. Review is not an appeal in disguise. It is

nowhere within the scope of review to recall any order passed earlier and to decide the case afresh.

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 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 also gone through the order sought to be reviewed. Even from the grounds taken therein, no illegality or irregularity or error apparent on the face of record has been shown to us so as to review the aforesaid order of this Court. We are of the considered view that there is no error apparent on the face of record in the impugned order dated 13.09.2017, which may be corrected/reviewed in exercise of review jurisdiction.

7. Accordingly, Review Application No.51 of 2017 is hereby rejected.

(Lt Gen Gyan Bhushan)
Member (A)

Dated : 30th October, 2017
PKG

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