

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

R.A. No. 68 of 2018 alongwith M.A. No. 1837 of 2018

In re:

O.A. No. 374 of 2017

Monday, this the 12th day of November, 2018

Hon'ble Mr. Justice S.V.S. Rathore, Member (J)

Hon'ble Air Marshal BBP Sinha, Member (A)

1. Union of India through Secretary Ministry of Defence, Government of India, New Delhi-11.
2. Chief of the Army Staff, Integrated Headquarter of Ministry of Defence (Army) DHQ, Post Office, New Delhi-11.
3. Adjutant General's Branch (MP-6(F) Integrated HQ of MoD (Army) West Block-III, RK Puram New Delhi-110066.
4. The Chief Controller Defence Accounts, Draupadi Ghat Allahabad (UP)

-Review Applicants

Ld. Counsel for the :
Review Applicants

**Shri Yogesh Kesarwani, Advocate
(C.G.S.C.)**

Vs.

IC- 39008H Lt Col Rakesh Nandkeolyar (Retd) Son of Late Major General AM Nandkeolyar, resident of A-1 Tyagi Vihar, AWHO Colony, Shardanagar, Bangal Bazar, Lucknow (UP)- 226002

....Respondent

Ld. Counsel for the :
Respondent

Shri R. Chandra, Advocate

ORDER

1. This review application has been filed by the Union of India and others in O.A. No. 374 of 2017 decided on 30.08.2017 Lt Col Rakesh Nandkeolyar (Retd) vs. Union of India and others. By the order under review the following relief was granted to the applicant :-

“ Accordingly the O.A. is allowed. The impugned orders passed by the respondents are set aside. The respondents are directed to grant

disability pension to the applicant @ 20% for five years, which would stand rounded off to 50% for five years from the date of discharge. The respondents are further directed to refer the applicant's case to Re-survey Medical Board for further entitlement of disability pension. The respondents are further directed to give effect to this order within a period of four months from the date of receipt of a certified copy of this order. In case the respondents fail to give effect to this order within the stipulated time, they will have to pay interest @ 9% on the amount accrued from due date till the date of actual payment.

No order as to cost. ”

2. As per report of the Office there is delay of 01 years and 28 days in filing this review application.
3. The ground raised on behalf of the review applicants is that the applicant was discharged after rendering about more than 17 years of service on his own request and therefore he was not entitled for disability pension. It transpires from the perusal of the order under review that the respondents have not even filed the counter affidavit in the said O.A. and now they are raising this ground for the first time. Apart from it the order under review has been passed on the basis of several pronouncements of Hon'ble Apex Court, which also deal with the ground taken by the review applicants in the instant R.A. The scope of review is very limited and review application can be entertained only on the basis of error apparent at the face of record. We do not find any error apparent on the face of record.
4. Thus, the review application is barred by time and therefore is hereby **dismissed** on the ground of delay as well as on merits.

No orders as to costs.

(Air Marshal BBP Sinha)
Member (A)

Dated: November 12, 2018

JPT

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

