

**By Circulation**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW  
(CIRCUIT BENCH, NAINITAL)**

**Review Application No. 69 of 2018**

**(Inre O.A. No. 149 of 2018)**

Wednesday, the 31<sup>st</sup> day of October, 2018

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

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

Ex Sep Pani Ram (No. 1289447)

S/o late Shri Daulat Ram

R/o Village – Sanger

POO – Nail (Via Jalna)

Tehsil – Jaiti

Distt – Almora (Uttarakhand)

..... Applicant

By Legal Practitioner – Shri Lalit Kumar

Learned counsel for the Applicant

Versus

1. Union of India, Through Secretary,  
Ministry of Defence, New Delhi.
2. Additional Dte Gen Territorial Army,  
General Staff Branch,  
IHQ of MoD (Army) 'L' Block,  
Church Road, New Delhi – 110011
3. Station Commander, Pithoragarh Military Station,  
Pithoragarh (Uttarakhand)
4. Officer-in-charge, Records,  
The Kumaon Regiment, Ranikhet (Uttarakhand)
5. Commanding Officer,  
130 Infantry Battalion,  
PO: Bharkatia, Distt : Pithoragarh (Uttarakhand)
6. PCDA (Pensions), Allahabad (UP)

.....Respondents

By Legal Practitioner – Shri R.C. Shukla

Learned counsel for the Respondents

## ORDER

1. The applicant has filed this Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008. By means of this Review Application, the applicant has made prayer to review the order by taking the following ground :-

*“The aforesaid order dated 10.10.2018 passed by this Bench of the Hon’ble Tribunal in O.A. No. 149 of 2018 is in direct conflict with the well settled principle of law in the service jurisprudence which postulates that the terms and conditions of service of a Government employee which are governed by the statutory service rules, cannot be altered to his disadvantage by administrative orders or instructions.”*

2. 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 10.10.2018 passed in O.A No. 149 of 2018, by means of which this Court had rejected the claim of the applicant on the basis of MOD letter dated 31.03.2008.

3. Since there is specific provision dealing with the condition which applies to the members of Ecological Task Force of Territorial Army, as such, the applicant shall not be entitled to pensionary benefits. Therefore, we do not find any illegality or irregularity or error apparent on the face of record so as to review the aforesaid order of this Court.

4. 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. 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. Apart from it, the applicant has also filed an application under Section 31 of the AFT

Act, 2007 for grant of leave to appeal which we have allowed as question of law of general public importance is involved.

5. Accordingly, Review Application No. 69 of 2018 is hereby **rejected.**

**(Air Marshal BBP Sinha)**  
**Member (A)**

Dated : 31<sup>st</sup> October, 2018  
**SB**

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