

Form No. 4
{See rule 11(1)}
ORDER SHEET
ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

(Court No. 2)

R.A. No. 38 of 2024 with M.A. No. 1272 of 2024
Inre O.A. No. 861 of 2021

Union of India & Ors

Applicants

By Legal Practitioner for the Applicants: Shri Sunil Sharma, Advocate

Versus

Ex Hony ACP Nb Sub (PA) Anil Kumar Dubey

Respondent

By Legal Practitioner for Respondents: Shri....., Advocate

Notes of the Registry	Orders of the Tribunal
	<p><u>22.11.2024</u> <u>Hon'ble Mr. Justice Anil Kumar, Member (J)</u> <u>Hon'ble Maj Gen Sanjay Singh, Member (A)</u></p> <p>1. This application has been filed with delay of 01 year, 04 months and 22 days for review of order dated 26.05.2023 under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008. Relevant portion of aforementioned Rule is reproduced as under:</p> <p style="text-align: center;"><i>“18. Application for review. – (1) No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed. (2) -----“</i></p> <p>2. A plain reading of Rule 18 (1) (supra) shows that no application for review shall be entertained after expiry of thirty days from the date of receipt of copy of the order, which according to the office report, the present review application has been filed after expiry of stipulated period.</p> <p>3. Ld. Counsel for the applicant has not invited attention of the Tribunal to any provision of the aforesaid Rules under which the Tribunal is empowered to condone the delay in preferring review application.</p> <p>4. Applicant has moved application for condoning the delay but delay of 01 year, 04 months and 22 days has not been properly explained. Accordingly, application for condonation of delay in moving review application is not maintainable and is rejected.</p> <p>5. 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 vide Order 47, Rule 1 Sub rule (1) of the Code of Civil Procedure. Review is</p>

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. 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.”

6. 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."

7. Accordingly, the application for review is **rejected**.

(Maj Gen Sanjay Singh)
Member (A)

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(Justice Anil Kumar)
Member (J)