

**By Circulation  
Court No. 1**

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

**Review Application No. 63 of 2018**

**(O.A. No. 266 of 2018)**

**Monday the 08<sup>th</sup> day of October, 2018**

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

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

No. 13624763M, Ex-Sep (Ptr Subhash Chand),  
S/o Sh. Karkalli, R/o Village Beenjhela,  
Post – Mathurahera, Tehsil – Kathumar  
Distt – ALWAR (Rajasthan).

.....Applicant

Ld. Counsel for : **Shri Shailendra Kumar Singh, Advocate**  
the Applicant

Versus

1. Union of India, through Secretary,  
Ministry of Defence (Army), South Block,  
New Delhi.
2. Chief of Army Staff, Integrated Headquarters,  
Ministry of Defence,  
South Block-III, New Delhi – 110011.
3. O/C Records, The Parachute Regiment,  
PIN 900493, C/o 56 APO.
4. Brigade Commander, HQ 50 (I) Para Brigade,  
PIN 908050, C/o 56 APO.
5. Commanding Officer No. 7, Para Battalion Group,  
PIN 911807, C/o 56 APO.
6. Col. Sameer Karol (Then CO No. 7, Para Battalion Group,  
PIN 911807, C/o 56 APO.

.....Respondents

Ld. Counsel for the : **Shri G.S. Sikarwar,**  
Respondents **Ld. Counsel for Central Govt.**

**ORDER**

1. The applicant has filed this Review Application under Section 14 (4)(f) of the Armed Forces Tribunal Act, 2007 read with Rule 18 of the Armed forces Tribunal (Procedures) 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 28.08.2018 passed in O.A No.266 of 2012 submitting that the relief, as claimed by the applicant in the O.A., has not been granted. The instant O.A. was partly allowed. The operative portion reads as under :

*“Accordingly, this O.A. is **partly allowed** and the orders of dismissal and the conviction and sentence dated 13.05.2010 passed by the SCM are hereby set aside. The applicant shall be notionally treated to be in service till he attains pensionable service, thereafter, he shall be entitled to post retiral benefits in accordance with law. He shall be entitled for service pension of the rank which he held before his dismissal. The respondents shall calculate the pension of the applicant from the date of his acquiring pensionable service.*

*The respondents are directed to complete this exercise within a period of five months from today, failing which the applicant shall be entitled to interest @ 9% per annum on the total amount accrued from due date till the date of actual payment.*

*Learned counsel for the respondents as well as the Registrar of this Tribunal are directed to communicate this order to the authorities concerned to ensure compliance 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. In the O.A. the relief of the applicant was for quashing the several orders and to reinstate back in service.

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 28.08.2018, which may be corrected/reviewed in exercise of review jurisdiction. The reliefs claimed and not granted shall be deemed to have been refused. The Court itself, on the basis of the facts and circumstances of the case, has moulded the reliefs to which the applicant was found entitled to. There is no error apparent on the face of record.

7. Accordingly, Review Application No.63 of 2018 is hereby rejected.

**(Air Marshal B.B.P. Sinha)**  
**Member (A)**

Dated : 08<sup>th</sup> October, 2018  
PKG

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