

BY CIRCULATION

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

**Review Application No. 43 of 2022 with
M.A. No. 400 of 2022**

Inre:

O.A. No. 188 of 2021

Union of India and Others

.....Review Applicants

VS.

Ramesh Kumar Pal, S/o late Ex Hav Ram Nath

.....Respondent

Thursday, this the 19th day of May, 2022

ORDER

1. Present Review Application under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 has been preferred by the Applicant-respondents against order dated 16.09.2021 rendered in Original Application No. 188 of 2021. The matter came up before us by way of Circulation as per provisions of Rule 18 (3) of the AFT (Procedure) Rules, 2008.
2. A prayer for review of the order has been made challenging the order of this Tribunal passed on account of payment of pensionary benefits to the son of the deceased

soldier whose mother had already expired prior to death of his father.

3. The relevant portions of judgment pertaining to review are reproduced herein under:-

(a) Any other attempt of the Court, except an attempt to correct an apparent error or an attempt not based on any ground mentioned in Order 47 Rule 1 and 2 CPC, would amount to an abuse of power to review its judgment, vide, (1999) 9 SCC 596 **Ajit Kumar Rath, Vs. State of Orissa.**

(b) Power of review conferred on the Court may be exercised when error is apparent at the face of record under Order 47 Rule 1 and 2 of CPC. It is a statutory power conferred on the Court. It is neither inherent power nor a power to re-appreciate the evidence, vide (2000) 6 SCC 224: **Lily Thomas Vs. Union of India.**

(c) It must be borne in mind that review is perfectly distinguished from an appeal i.e.; quite clear from statutory provision (Order 47 Rule 1 of CPC) that the primary intention of granting a review is the reconsideration of the same subject by the same Judge as contra-distinguished to an appeal which is a hearing before another Tribunal, vide (2005) 2 SCC 334, **Ishwar Singh, Vs. State of Rajasthan.**

(d) In sum and substance, review is by no means an appeal in disguise whereby an erroneous decision is

reheard and corrected, but lies only for patent error where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out vide, (2006) 4 SCC 78 **Haridas Das. Vs. Usha Rani Banik.**

(e) In (2008) 9 SCC 612: **State of West Bengal and Others. Vs. Kamal Sen Gupta**, their lordships of Hon'ble Supreme Court held that error apparent at the face of record means mistake which prima facie is visible and does not require any detailed examination.

(f) In (1995) 1 SCC 170: **Meera Bhanja (Smt.). Vs. Nirmala Kumari Chaudhary (Smt.)** followed by (1997) 8 SCC 715: **Parsion Devi Vs Sumitri Devi**, their Lordships of the Hon'ble Supreme Court held that power of review does not mean to exercise de novo hearing except the error apparent on the face of record in view of Order 47 Rule 1 of CPC.

(g) In JT 2012 (12) SC 565: **Akhilesh Yadav Vs. Vishwanath Chaturvedi and others**, their Lordships of the Hon'ble Supreme Court held that an erroneous decision in itself does not warrant a review of each decision in absence of error apparent at the face of record.

4. In view of the above, the present application for review appears to be not sustainable, more so, when the applicant fulfilled the eligibility conditions for grant of family pension as per Para 219 of Pension Regulations for the Army, 1961 (Part-I).

5. Review lacks merits and is **rejected**.

6. There shall be no orders as to costs.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

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