

COURT NO. 1, ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

AT 2:15 PM

2.

RA 23/2023 WITH MA 2356/2023 IN OA 1099/2021

In the matter of :

Lt Col Rajeev Bhatt

... Applicant

Versus

Union of India & Ors.

... Respondents

For Applicant : Applicant in person

For Respondents : Shri Rajeev Kumar, Advocate

CORAM :

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE LT. GEN. P.M. HARIZ, MEMBER (A)

ORDER
06.07.2023

This application has been filed under Rule 18 of the Armed Forces Tribunal Act, (Procedure) Rules, 2008 seeking review/recall of the order passed by this Tribunal on 30th April, 2022. Review is neither an appeal nor re-hearing of a case. The law with regard to review application has now been well settled in the case of **Sasi (DEAD) Through Legal Representatives v. Aravindakshan Nair and Others (2017) 4 SCC 692** and in

Para 6,7,8 and 9 the principle of review has been laid down which read as under:-

6. *The grounds enumerated therein are specific. The principles for interference in exercise of review jurisdiction are well settled. The Court passing the order is entitled to review the order, if any of the grounds specified in the aforesaid provisions are satisfied.*
7. *In Thungabhadra Industries Ltd. V. State of A. P., the court while dealing with the scope of review had opined. (AIR p. 1377, para 11)*

"11. What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an "error apparent on the face of the record". The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an "error apparent on the face of the record". For there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterized as vitiated by "error apparent". A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error".

8. *In Parsion Devi v. Sumitri Devi, the Court after referring to Thungabhadra Industries Ltd. Meera Bhanja v. Nirmala Kumari Choudhary and Aribam Tuleshwar Sharma v. Aribam Pishak Sharma held thus ; (Parsion Devi case, SCC p. 719. Para 9)*

" 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". A review petition, it must be remembered, has a limited purposed and cannot be allowed to be "an appeal in disguise".

9. The aforesaid authorities clearly spell out the nature, scope and ambit of power to be exercised. The error has to self-evident and is not to be found out by a process of reasoning. We have adverted to the aforesaid aspects only to highlight the nature of review proceedings.

2. Considering the fact that the applicant wants rehearing of the matter and the grounds raised by the appellatant in this application are those based on which a review is not permissible.

3. Thus, the application stands dismissed.

[RAJENDRA MENON]
CHAIRPERSON

[P.M. HARIZ]
MEMBER (A)

/ps/