

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

(THROUGH VIRTUAL HEARING)

2.
RA 4/2023 IN OA 945/2018

Ex L/Nk Murari Lal Sharma Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Anil Srivastava, Advocate
For Respondents : Mr. Anil Gautam, Sr. CGSC

CORAM

HON'BLE MS. JUSTICE ANJANA MISHRA, MEMBER (J)
HON'BLE LT GEN BOBBY CHERIAN MATHEWS, MEMBER (A)

ORDER
10.04.2023

RA 4/2023

Heard learned counsel for the parties.

2. The present application for review has been filed after the oral prayer for leave to appeal was rejected by this Tribunal vide its order dated 5th November, 2022. The three grounds raised by the applicant in the Review Application are that :-

- (i) Since the complaint was against the commanding officer, he could not have conducted or participated in the SCM.
- (ii) There has been non-application of law
- (iii) There is no evidence against the applicant.

3. Learned counsel for the applicant has not been able to establish before us as to how there is an error apparent on

the face of the record in the judgment under review, but instead has tried to assail the same on merits of the case.

4. We have perused the entire order under review and find that the same is a fully reasoned order.

5. Learned counsel for the respondents, however, points out that all the points raised in the review application by the applicant go to the end that the entire case may be re-opened for fresh re-consideration. He also submits that the points raised by the applicant's counsel in the submissions advanced at the Bar were not considered in the order, passed also do not have any substance as it is clearly barred under Section 11 Explanation V of the Code of Civil Procedure. The relevant extract of which is quoted hereunder:

“ Explanation V- Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.”

6. Having gone into the entire application and after hearing parties at length, we are of the considered opinion that the present review application is an appeal in disguise.

7. We do not find any merit in this review application and the same is accordingly dismissed.

(ANJANA MISHRA)
MEMBER (J)

(BOBBY CHERIAN MATHEWS)
MEMBER (A)