

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

70.

RA 52/2024 IN OA 1376/2023

Ex Sep Dharamvir Kumar Applicant
Versus Respondents
Union of India & Ors.

For Applicant : Mr. Arvind Kumar, Advocate
For Respondents : Mr. Y P Singh, Advocate

CORAM

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

ORDER
09.10.2024

RA 52/2024

Invoking the jurisdiction of this Tribunal under Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 and praying for review of the order passed by this Tribunal on 30.08.2024 in OA 1376/2023.

2. Keeping in view the law laid down by the Hon'ble Supreme Court in the matter of Sasi through Legal Representatives Vs. Aravindakshan Nair and others [(2017) 4 SCC 692] in Para 6, 7, 8 and 9 which read as under, the order passed by this Tribunal on 30.08.2024 in OA 1376/2023 does not appear to fall within the purview of review as per the legal position settled in the case of Sasi through Legal Representatives (supra).

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 *Parson 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; (Parson 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 apart from 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 purpose 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 be 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.

3. The appropriate remedy available to the applicant would be to challenge the order before the appropriate forum as stated in Para 8 of the aforesaid judgment.

4. However, we clarify that if the applicant appears for the conduct of the RSMB in compliance with the directions

issued on 30.08.2024 in OA1376/2023, the respondents may proceed accordingly.

5. The RA thus stands dismissed.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[LT GEN C.P. MOHANTY]
MEMBER (A)

Ps
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