

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

RA 58/2023 in OA 118/2022

Nb/Sub Sanjeev Kumar Dixit Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. Shyam Narayan, Advocate

(Reserved on 08.08.2025)

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

ORDER

Seeking review/recall of an Order dated 27.09.2023 passed by this Bench in OA No.118/2022, the applicant has filed this application under Section 14(4)(f) of the Armed Forces Tribunal Act, 2007. The applicant was aggrieved by non grant of extension of service to him and when he was discharged from service on 28.02.2022 on being placed under the Low Medical Category and when extension was denied to him he invoked the jurisdiction of this Tribunal seeking extension of service and it was contended that even though the applicant was in the Low Medical Category on 09.07.2018 for the ailment of Simple Obesity and Primary Hypertension. On 12.01.2019 the applicant was upgraded for Simple Obesity and placed in P2(P) from Primary Hypertension by

the Re-categorization Medical Board. The applicant's next Re-categorization was erroneously scheduled to be held on 30.06.2021, whereas it should have been held within two years on 12.01.2021 as per the Policy of the Govt. It is the grievance of the applicant that the same was postponed due to Covid Pandemic and wherein the Re-categorization Medical Board had upgraded the applicant's medical category to SHAPE-I. It was imperative to mention that the applicant was due and in line for being considered for extension of two years of service and if this was done, he would have been permitted to continue in service after 01.03.2022. It was the grievance of the applicant that extension was denied to the applicant because the upgradation to SHAPE-1 was not done in time.

2. The applicant challenged the findings recorded by this Tribunal and as his application has been dismissed, it is his contention that the applicant was denied extension by wrongly quoting the provisions and not subjecting him to screening for grant of extension within two years in the regulated terms as per the policy of the Ministry of Defence.

3. Taking us through various circulars and orders, it is the grievance of the applicant that the respondents did not ensure that the applicant was subjected to medical examination within two years

and they themselves were to be blamed for the delay caused in not getting the applicant medically examination within the stipulated period. The main ground that the re-cat medical board should have been held in January, 2021 but it was held after a delay of six months on 30.06.2021, therefore, the entire delay vitiates the provisions. The applicant seeks review of the Order on these grounds.

4. Before we advert to consider various aspects of the matter, it would be appropriate to take note of the power of review available to this Tribunal. The power of review available to this Tribunal is akin to the provisions of Section 114 CPC read with order 47 Rule 1 and the scope of review under these provisions has been laid down by the Hon'ble Supreme Court in the case of *Sasi (Dead) through Legal Representatives vs. Arvindakshan Nair and Ors.* (2017) 4 SSC 692. After considering various aspects of the matter and judgments on the issue in para 8 and 9 of the said judgment the scope of review and the legal principles governing review of a judgment has been laid down by the Hon'ble Supreme Court in the following manner:-

"8. In Parsion Devi v. Sumitri Devi, 1997(4) RCR (Civil) 458 : (1997) 8 SCC 715, the Court after referring to Thungabhadra Industries Ltd., Meera Bhanja v. Nirmala Kumari Choudhury, (1995) 1 SCC 170 and Aribam Tuleshwar Sharma v. Aribam

Pishak Sharma, (1979) 4 SCC 389, 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 "re heard 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."

5. It is, therefore, clear that the scope of review and the power available to review is limited. There has to be an error which is apparent from the face of the record, has to be self evident from the record and it is not to be discovered or found after a process of reasoning. If we analyse the case in hand in the backdrop of the aforesaid principles, the applicant's main contention is that contrary to the policy the Re-categorization Medical Board was not held within the period of two years. It was delayed and, therefore, the applicant was entitled to the relief.

6. A perusal of the Order passed by this Tribunal would indicate that this aspect has been elaborately dealt with in the Order. It has

been found that the Re-categorization Medical Board was held on 12.01.2019 and within a period of two years the next Re-categorization Board should have been held on 12.01.2021. However, it was delayed and held after six months on 30.06.2021. This was emphasized to be incorrect, illegal and contrary to the policy.

7. A perusal of the detailed Order passed by this Tribunal running to about 26 pages would show that each and every aspect has been dealt with meticulously in detail and reasons indicated in the Order. In para 32, 33 and 34 of the Order under review, the findings recorded by the Tribunal reads as under:-

"32. At this juncture, on an analysis of the aforesaid documents, the question arises that if clear orders as above existed and were conveyed, how was the entire case mismanaged and the Re-cat Board held to upgrade the applicant in utter violation of the AO 03/2001, and specially, when clear instructions have been passed in the Discharge Order. We are of the opinion that it is a case of clear lapse on the part of the respondents, knowingly or unknowingly.

33. Noting the aforesaid, the omission on the part of the applicant cannot be considered as a mere unawareness, since the medical authorities conduct a medical board as per requirements of the personnel filing up specific forms relevant to different types of medicals; for e.g AFMSF-15 being the form for Re-categorisation Medical Board, AFMSF-16 a typical form for Release Medical Board and AFMSF-18 is a form for Release Medical Examination (for medical fit personnel). Thus, if the applicant has erred by submission of a wrong form for the Release Medical Board i.e. AFMSF-15 instead of AFMSF-16, despite being a staff of the establishment conducting medical board, the onus of responsibility once again equally lies with him.

34. Therefore, while holding that the Respondents are no doubt responsible for this lapse on their part, we can not entirely absolve the applicant of his responsibility towards his personal documentation, unless there is an intent to misuse the provision by deliberate Ignorance or mis-interpretation to obtain an extension, and the fact that ignorance of law, which includes policies, cannot be treated as an excuse, and specifically, in this case, wherein the applicant is himself a JCO employed with the same establishment and involved in same assigned tasks."

8. Thereafter, after perusal of the records and the medical board proceedings, in para 37 and 38, the findings recorded read as under:-

"37. On a detailed perusal of the medical board proceedings, we observe that in the Re-cat Medical Board proceedings dated 27.09.2021 wherein applicant was upgraded to SHAPE-1, it has been recorded in Part II Clinical Assessment that "his blood pressure recorded have been normal for last three years without drugs." We find that if that be so, it is obvious to infer that he has been without drugs since the onset of his disability: Primary Hypertension, the onset of which is in 2018 itself i.e. three years prior to the Re-Cat Medical Board in question. Now, this gives rise to serious questions with respect to diagnosis of the disease itself.

38. Observing aforesaid, we find it pertinent to note that we have encountered certain infirmities in the medical documents including the proceedings of the Medical Board, which has led to serious doubts and questions on the impartiality of the process undertaken in conduct of Medical Board, which, therefore, merits a thorough investigation into the case, and revision of policy pertaining to procedure adopted in conduct of Medical Boards to avoid loopholes which could be taken advantage of in future."

9. It is, therefore, clear from the detailed analysis made by this Tribunal based on the documents that the applicant himself being a staff of the same hospital and acquainted with the working of the

system in the hospital cannot absolve himself of the responsibility. We have also observed that we have doubt in the manner in which the applicant has undertaken scrutiny of his case and we have also doubted the process undertaken to conduct the medical board and we have observed for an investigation into the whole issue. We have also issued certain directions to formulate guidelines to prevent such misinterpretation and misuse in future. Taking note of the circumstances as detailed hereinabove, we are of the considered view that in the facts and circumstances of the case there is no error apparent on the face of record warranting review or recall. The Review Application is, therefore, dismissed.

10. No order as to costs.

11. Pronounced in open Court on this the 22 day of August, 2025.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

(LT GEN C.F MOHANTY)
MEMBER (A)

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