

**COURT No.3  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**RA 31/2025 WITH MA 4902/2025 IN OA 1483/2021**

**Cdr A K Srivastava (Retd) ..... Applicant**  
**VERSUS**  
**Union of India and Ors. .... Respondents**

**For Applicant : Mr. K R Verma, Advocate**  
**For Respondents : Mr. Avdhesh Kumar Singh, Advocate**

**CORAM**

**HON'BLE MS. JUSTICE NANDITA DUBEY, MEMBER (J)**  
**HON'BLE LT. GEN. C.P. MOHANTY, MEMBER (A)**

**ORDER**

The present Review Application is being preferred by the applicant seeking modification of Para 11 of the order under review dated 27.02.2023, wherein the Tribunal while granting benefit of disability element of pension @30% for life for Primary Hypertension:- rounding-off to 50% in view of the judgment of Hon'ble Supreme Court in Union of India & Ors. Vs. Ram Avtar, (2014) SCC Online SC 1761, restricted the arrears to 3 years prior to the date of filing the OA which was 09.07.2021.

2. Mr. Avdhesh Kumar Singh learned counsel appearing on behalf of the respondents on the other hand raised objections regarding maintainability of the review application. It is submitted

that the instant review is filed with an inordinate delay of 885 days and no explanation in this regard has been submitted by the applicant. It is further stated that the order under review dated 27.02.2023, has already been executed and under such facts and circumstances, this review application has rendered infructuous.

3. Whereas, it is contended by Mr. K.R Verma learned counsel appearing on behalf of the applicant that there is an error apparent on the face of the record in as much as while restricting the arrears to three years prior to the date of filing of the OA, this Tribunal overlooked the fact that the OA was filed by the applicant within the limitation period and whatever delay was there it was attributable to respondents who took three years to decide the first and second appeal preferred by the applicant. Referring to Union of India through its Secretary & Ors. Vs. SGT Girish Kumar & Ors. (2026) SCC Online SC 194, it is stated that to receive disability pension is a valuable right and benefit of the same has to be given from the date it becomes due.

4. However, we are not impressed with such arguments. Firstly, such arguments were available to the applicant at the relevant time and having not chosen to raise such grounds in the

OA, the applicant cannot be permitted to raise such grounds in the present review application and secondly the decision in Sgt. Girish Kumar (supra) has no application to the facts of the case in hand. Further review cannot be granted based on a subsequent judgment.

5. We find merit in the arguments of learned counsel appearing on behalf of the respondents. A perusal of the record reveals that the order under review was passed on 27.02.2023, whereas, this review application is filed on 26.05.2025 after inordinate delay of 885 days. Further the applicant has not given any proper/satisfactory explanation for this inordinate delay in filing the Review Application, apart from stating that due to oversight he overlook the Para 11 of impugned order under review dated 27.02.2023. Rule 18(1) of the Armed Forces Tribunal (Procedure Rules), 2008 prescribes a limitation period of 30 days for filing the review. As such this application is liable to be rejected on the ground of limitation only.

6. For yet another reasons this application deserves to be dismissed as evident from record that the OA 1483/2021 was allowed by this Tribunal vide order dated 27.02.2023, thereafter an application for execution MA 4258/2023 in the said OA

was preferred by the applicant on 05.10.2023. In the said execution case, contempt notices were issued to the respondents on 20.08.2024 to comply with the order dated 27.02.2023 against the order dated 27.02.2023, the respondent union preferred a Writ Petition (C) No. 15493/2024 which came to be dismissed by the Hon'ble High Court of Delhi vide order dated 12.11.2024. Thereafter, dismissal of W.P(C) 15493/2024, this Tribunal vide order dated 12.12.2024, granted further four weeks' time to comply with the order dated 27.02.2023 else face coercive action. Faced with the contempt notice and the consequential coercive action, the respondents complied with the order and made the payment of Rs. 34,16,274/-, vide PPO No. 301201815505 dated 08.04.2025 as is evident from record. After execution of the order and receipt of payment of arrears, the applicant on 29.04.2025 filed an MA 2298/2025 for clarification of the impugned order dated 27.02.2023 which was withdrawn on 26.05.2025 with liberty to file the present review application. Once the order under review has been executed and the matter has attained finality nothing further survives for reviewing the said order.

7. It is settled law that a review petition cannot be used as a tool to re-argue the case or even to correct an erroneous decision on merits, if any. The applicant cannot be permitted to utilise the review jurisdiction as a second inning to argue the case de novo that too after the order under review has already been executed nor can a decision which has attained finality be reopened on basis of a judgment passed subsequently in another case. Under the facts and circumstances of the case we do not find any merit in the review application and same is dismissed accordingly.

Pronounced in the open Court on this 30<sup>th</sup> day of March, 2026.

(JUSTICE NANDITA DUBEY)  
MEMBER (J)

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

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