

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

RA 60/2023 in OA 223/2017

Wg Cdr Arun Kumar Dikshit	Applicant
Versus		
Union of India & Ors.	Respondents
For Applicant	:	Mr. U. K. Shandilya, Advocate
For Respondents	:	Mr. Karan Singh Bhati, Sr. CGSC

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

ORDER

This application has been filed under Section 114 CPC read with Order 47 Rule 1 (CPC), Section 151 CPC read along with Section 14 (4)(f) of the Armed Forces Tribunal Act, 2007 read with Rule 18 of the Armed Forces Tribunal (Procedure) Rules, 2008 seeking review of an order passed by this Tribunal in OA 223/2017 on 06.04.2023.

2. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant, Wing Cdr. Arun Kumar Dikshit, filed an application (OA 223/2017) and sought the following reliefs:-

“(a) Quash and declare null and void the CoI proceedings, impugned show cause notice dated 15.06.2016, MoD order dated 27.01.2017 and AFND/C301/1/P1 dated 02.02.2017 dismissing the

applicant from service and he be reinstated in service from the date of dismissal with all consequential benefits; or

(b) Allow the applicant 'premature separation from service', without prejudice to the relief sought for at para 8(a) above; and/or

(c) Grant the applicant his pensionary benefits having rendered 24^{1/2} years of service;

(d) Direct the respondents to release applicant's terminal benefits i.e. DSOP Fund, Leave Encashment, etc. forthwith; and/or

(e) Grant any other relief(s) which this Tribunal may deem fit, appropriate, just and proper in the interest of justice and in the facts and circumstances of the case."

3. After analyzing various aspects of the matter and by a detailed judgment, the OA was dismissed by a bench of this Tribunal. Thereafter, an application under Section 31 of the Armed Forces Tribunal Act, 2007 was filed by the applicant seeking leave to appeal to the Hon'ble Supreme Court, the said application was listed as MA 1973/2023 and the prayer for leave to appeal was rejected on the ground that no point of law much less any point of law of general public importance involved in the matter.

4. After dismissal of the application under Section 31, the applicant invoked the jurisdiction of the Hon'ble Supreme Court in Civil Appeal Diary No. 33069/2023 and a statement was made before the Hon'ble Supreme Court that though

certain contentions were raised by the applicant while hearing of the original application before the AFT but as the same did not find mention or place in the impugned judgment, the SLP was withdrawn with liberty to file a fresh review application before this Tribunal and accordingly this application for review has been filed.

5. The review application runs to more than 82 pages and on a perusal of the review application, we find that the applicant has raised the grounds which were already considered by this Tribunal while deciding the OA. We have heard learned counsel for the parties at length and we have gone through the pleadings made in the review application and we find that they are nothing but repetition of the same arguments which were advanced at the time of hearing and were meticulously considered by us at the time of hearing and thereafter evaluated and discussed in the Judgment. We had adverted to all important issues that were involved in the matter and have decided the original application based on the proceedings of the trial and Court of Inquiry and other relevant documents and we had given various reasons as to why the applicant is not entitled to any relief. The applicant's case has been decided by this Tribunal based on the material that came on record and the evidence that were available on

record including the electronic evidence. We have considered the entire Court of Inquiry and the detailed reply to the show cause notice submitted by the applicant. The arguments advanced before us and the allegations with regard to the extra judicial confession said to have been extracted on duress and inducement have also been taken note of by us and after meticulously analysing each and every aspect of the matter, grounds of considerations were formulated vide Para 14 and after analyzing the issue in detail, the original application was decided by a detailed order.

6. Now the applicant, again in the garb of the submission that points raised by him were not considered, has made efforts to re-argue the entire OA on merit. We may indicate that hearing in OA commenced on 18.07.2022 and continued on various dates for a long period and the matter was finally reserved for orders only on 19.11.2022. The applicant now again raises the grounds which were canvassed by him at the time of hearing and tries to reiterate the same submissions in a different form.

7. In our considered view, this review application filed by the applicant is nothing but an application for re-hearing of the matter afresh or in the form of an appeal. The law with regard to scope of review application available under

Section 114 CPC is stipulated by various judgments and it is only an error apparent on the face of record which can be considered for review of the order already passed by a Court. We may refer to one judgment of the Hon'ble Supreme Court, wherein the principles for review under Section 114 read with 47 Rule 1 CPC have been laid down in detail by the Hon'ble Supreme Court, i.e., Sasi (Dead) Through Legal Representatives Vs. Arvindakshan Nair and Others (2017) 4 SCC 692, it has been held by the Hon'ble Supreme Court in the aforesaid case that the scope of interference in a review application is very limited. Every erroneous decision cannot be classified as an error apparent on the face of record and corrected in review proceedings under Order 47 Rule 1 CPC. In the aforesaid case, the Hon'ble Supreme Court has dealt with the matter in detail and in Para 8, 9 and 10 has crystallized the principles in the following manner:-

“8. In *Parsion Devi v. Sumitri Devi*, the Court after referring to *Thungabhadra Industries Lt., Meera Bhanja v. Nirmala Kumari Choudhury* 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 fact 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 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.

10. In the case at hand, be it clearly stated, we are really not concerned with the exercise of the power of review and its limitation by the court. We are concerned with the delay in disposal of the application for review which was kept pending for a span of four years."

8. From the aforesaid, it is clear that in a proceeding in Order 47 Rule 1 CPC, it is not permissible to re-hear and correct the erroneous decision. The review proceedings are not appellate proceedings. Only those errors have been held to be errors apparent on the face of record by the Hon'ble Supreme Court, which are self-evident and are not to be found out by a process of reasoning can be corrected. If we analyze the arguments advanced before us in this review application and if we take note of the principles of law crystallized by the Hon'ble Supreme Court as detailed

hereinabove, we are of the considered view that there is no error apparent on the face of record. By way of a review/recall, the applicant is challenging the proceedings of Court of Inquiry again on the same grounds which were canvassed before us at the time of hearing of the OA. Nothing has been brought to our notice which can be termed as an error based on the material as apparent on the face of record.

9. In our considered view, in the garb of application for review, the applicant is trying to re-argue the entire case afresh and want this Court to again hear the matter, which in our considered view is not permissible. Accordingly, finding this application to be totally unsustainable in law, beyond the jurisdiction of this Tribunal under Section 114 Order 47 Rule 1 of the CPC, we dismiss this application.

10. RA 60/2023 stands dismissed.

Pronounced in open Court on this 22 day of January, 2026.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

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

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