

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

108.

RA 37/2023 WITH MA 3759/2023 IN OA 956/2016

Ex Sep Naginder Singh ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. Naresh Ghai , Advocate and
Mr.Manoj Kr Gupta, Advocate
For Respondents : Mr. Avdhesh Kumar Singh, Advocate

CORAM :

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

O R D E R
15.09.2023

RA 37/2023 WITH MA 3759/2023

This review application has been filed seeking review of an order passed by this Tribunal on 06.03.2020 in OA 956/2016.

2. Mr. Avdhesh Kumar Singh, learned counsel appearing for the respondents, points out that the application for review and the application for condonation of delay are signed by the applicant's counsel and even the affidavits in support thereof are on the basis of affidavit of the counsel. He takes objection to the same and argues that without the affidavit and signature of the applicant, both the applications for review and condonation of delay, are not maintainable.

3. The relevant Sub Rule (5) of Rule 18, of Armed Forces Tribunal Procedure, Act 2007, on the subject reads as under:

“18. Application for review.

xxx

xxx

xxx

xxx

xxx

xxx

(5)No application for review shall be entertained unless it is supported by a duly sworn affidavit indicating therein the source of knowledge, personal or otherwise. The counter-affidavit in review application will also be a duly sworn affidavit wherever any averment of fact is disputed.”

4. It is clear from the aforesaid that the review application and all other applications have to be supported and sworn by an affidavit indicating the source of knowledge, personal or otherwise, and has to be duly sworn before a competent authority. The personal knowledge has to be the knowledge of the applicant himself and not the knowledge of the counsel, who appears before the Court on instructions.

5. In our considered view, the review application has to be filed under the signature of the applicant along with the affidavit, so also the application for condonation of delay. There being a delay of 1252 days, the explanation for the delay is within the personal knowledge of the applicant and it cannot be accepted without his affidavit. That being so, we find, *prime facie*, much force in the objection raised by the learned counsel for the respondents.

6. In view of the aforesaid, applicant is granted four weeks' time to either rectify the objection raised by learned counsel for the respondents or face the consequences.

7. List the matter on **10th November, 2023**.

**[JUSTICE RAJENDRA MENON]
CHAIRPERSON**

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