FORM NO - 4

(SEE RULE 11 (1)

IN THE ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOLKATA

ORDER SHEET

APPLICATION No: R.A. 03 of 2013 (OA 14 of 2013)

APPLICANT (S)

Union of India & 3 Ors

RESPONDENT (S)

Vijay Chandra Shekhar Badavanmath

Legal Practitioner of applicant

Legal Practitioner for Respondent (s)

Mr. Anup Kumar Biswas

Mrs. Maitrayee Trivedi Dasgupta

| NOTES OF THE DECISE: | |
|-----------------------|-------------------------------------------------------------------------------------------------|
| NOTES OF THE REGISTRY | ORDERS OF THE TRIBUNAL |
| | Order Sl. No. : Dated : 22.10.2013 |
| | |
| | Mr. Anup Kumar Biswas, Ld. Advocate appears on behal |
| | |
| | of the Union of India-applicants. Mrs. Maitrayee Trived |
| | Dasgupta, Ld. Advocate appears for the respondent/origina |
| | applicant. The R.A. is taken up for hearing. |
| | In this R. A. filed by the UOI-respondents of O.A. |
| | No.14/2013, a prayer has been made for review of the order |
| | dated 19.03.2003 passed in O.A. No.14/2013 on the grounds |
| | stated therein. |
| | We have heard Ld. Advocates for both sides and have gone through the averments made in the R.A. |
| | The OA was disposed of by order dt. 19.3.03 by issuing |
| | certain directions regarding re-joining of the applicant, who was |
| | alleged to be a deserter, to the nearest unit from his home, |
| | which would be Maratha Light Infantry Regimental Centre |
| | located at Belgaum and thereafter the respondents will take |
| | further necessary action for holding court of inquiry etc. as per |
| | rules. It appears that the respondents are aggrieved by this order |
| | and as per submission of Mr. Biswas, Id. adv. for the review |

applicants, this order was passed by this Tribunal on the basis of wrong averments of the applicant only without any proof or evidence and therefore, the order should be reviewed.

The submissions of Mr. Biswas is resisted by Mrs. Maitrayee Trivedi Dasgupta, ld. adv. for the original applicant who has supported the order and pointed out that the Tribunal even expunged the allegations made by the applicant in the OA against the commanding officer and decided the matter on limited ground as stated in page 2 of the order itself.

A Court or Tribunal can review its own order in terms of Order 47 Rule (1) of CPC on fulfillment of the conditions laid down therein. Such conditions are - when there is an error apparent on the face of the record or order to be reviewed or when new and important evidence is produced which could not be produced earlier at the time of the hearing of the main application in spite of exercise of due diligence or for any other valid reasons.

On going through the grounds stated in the R.A. and after hearing the submissions of both parties, we find that no error apparent on the face of the order has been pointed out nor any new evidence has been produced which could not be produced earlier. It appears that the grounds adduced are vague and imaginary. In fact, the grounds stated in the R.A. may be grounds for appeal because they have in effect contended that the Tribunal has erred in issuing the directions while disposing of the OA. It is to be noted that the order was passed in open court in presence of both sides and no objection was raised by the respondents at that time. Now, it is not open to them to challenge the order through this review petition. It is well settled that in the garb of review, a re-hearing of the matter

cannot be claimed. If the respondents are not satisfied with the order, their remedy lies in approaching appropriate higher forum for appropriate orders. A review is not permissible in such cases.

In view of the above, the R. A. is liable to be dismissed being devoid of any merit and accordingly the same stands dismissed. No cost.

Let a plain copy of the order duly countersigned by the Tribunal Officer be furnished to both sides on observance of due formalities.

(LT. GEN K.P.D.SAMANTA) (JUSTICE RAGHUNATH RAY) MEMBER(A)

MEMBER(J)