

**Central Administrative Tribunal
Principal Bench**

**RA - 32/2018
OA - 3829/2014
MA - 835/2018**

New Delhi, this the 1st day of October, 2018

**Hon'ble Mr. K.N. Srivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Rishi Pal Tomar
S/o Sh. R.S. Tomar
R/o RZ-20M, Gali No. 4, Palam Road
Sagarpur, New Delhi.

(By Advocate : Mr. Yogesh Sharma)

....Applicant

Versus

1. Union of India through the Secretary
Ministry of Defence
South Block, New Delhi.
2. The Joint Secretary (Training) and
Chief Administrative Officer
Govt. of India, Ministry of Defence
E-Block, New Delhi – 110011.
3. The Deputy Chief Administrative Officer (P)
Office of the JS (Training) and Chief Administrative Officer
C-2, Hutmants Govt. of India, Ministry of Defence
DHQPO, New Delhi – 110011.

....Respondents

(By Advocate : Mr. Rajinder Nischal)

ORDER (ORAL)

Mr. K.N. Srivastava, Member (A)

Through the medium of this RA, prayer has been made seeking review of the Tribunal's order dated 20.03.2017 in OA 3829/2014 along with other connected OAs. The Review Applicant has challenged the order of Tribunal before Hon'ble Delhi High Court in

WP(C) No. 11248/2017 together with CM Nos. 45979-45980/2017. The *ibid* WP(C) and the CMs came up for consideration before the Hon'ble High Court on 19.12.2017. The Hon'ble High Court, vide its order of even date, has noticed as under :-

- “1. Ms. Jyoti Singh, learned Senior Advocate appearing for petitioner submits that orders in the present petition may be deferred to enable the petitioner to file a review petition before the Tribunal for seeking review of the order dated 20.03.2017.
2. At the request of learned counsel for the petitioner, list on 16.05.2018.”

2. The Review Applicant, in support of the prayer seeking review of the Tribunal's order dated 20.03.2017, has, *inter alia*, reiterated as under :

“2. That the above OA came up for hearing before the Hon'ble Tribunal on 7.3.2017 and arguments addressed on the said date of hearing were confined to the limited aspect of remanding the matter back to the department for review in light of the law of acquittal as has been laid by the Hon'ble Supreme Court in G.M. Tank Versus State of Gujrat, 2006 SCC (L&S) 1121 and other judgments. It was repeatedly submitted that if the Hon'ble Tribunal did not agree to remand the matter back for reconsideration of Revision, the petitioners would address argument on merits of the Enquiry proceedings. It is relevant to submit that the Hon'ble Tribunal then reserved the judgment on this limited aspect and owing to the said submissions the learned senior counsel appearing for the petitioner did not argue their case on merits at all and reserved her right to argue the matter on merits on a later date. If need be.”

3. Reply on behalf of respondents in the RA has been filed. The main argument of the respondents is that the Hon'ble Delhi High Court has not granted any liberty to the original applicant to prefer

any RA before the Tribunal and as such, the RA is misdirected. The learned counsel has also raised the issue of limitation in filing the RA.

4. Mr. Yogesh Sharma, learned counsel for review applicant (who was original applicant in OA) submits that the order under review has been passed by the Tribunal without hearing the learned senior counsel for the respondents and as per averments made in para 2 of the RA cited above, the prayer made in the RA deserve to be allowed.

5. We have considered the arguments of learned counsel for parties and have also perused the pleadings in the RA.

6. We are in agreement with Mr. Nischal that no liberty has been granted by the Hon'ble High Court to the original applicant to prefer this RA. More so, the order of the Tribunal has already been challenged by the original applicant in the Hon'ble High Court in *ibid* WP(C). which is not yet decided.

7. In view of this, we are of the opinion that there is no need to consider this RA at this stage. Needless to say that since the issue is already ceased with Hon'ble High Court, it would be appropriate for all concerned parties to await the outcome of Writ Petition.

8. With the above observations, this RA stands disposed of.

(S.N. Terdal)
Member (J)

/anjali/

(K.N. Srivastava)
Member (A)