

**IN THE ARMED FORCES TRIBUNAL
REGIONAL BENCH, GUWAHATI.**

MA - 38/2017

(In RA-01-2017 AOO MA 21-2015 in TA -06/2012)

PRESENT

**HON'BLE DR.(MRS) JUSTICE INDIRA SHAH, MEMBER (J)
HON'BLE LT GEN GAUTAM MOORTHY, MEMBER (A)**

1. Union of India,
Represented by the Secretary,
Govt. of India, Ministry of Defence (MoD),
South Block, New Delhi – 110011.
2. Addl. Directorate General Assam Rifles,
Shillong, Pin 793 001, Meghalaya
3. The Colonel Commandant
13th Assam Rifles, C/O. 99 APO

..... Applicant

**By Legal Practitioner for the
Applicants**

Mr. Chandra Baruah, CGSC.

-VS_

No.358635 H Rfn/Orl,Shri Amar Nath Yadav
S/O. Shri Baba Ram Yadav
Resident of Vill Kalaun (Sherpur)
PO Narayanpur
PS Adalhat Dist. Mizapur, Uttar Pradesh

.... **Respondent.**

**By legal practitioners for
Applicant.**

Mr R.Thadani

ORDER
10.05.2018

(Dr(Mrs) Justice I.Shah)

1. This is an application filed under section 22(2) of the Armed Forces Tribunal Act, 2007 for condonation of delay of 246 days in preferring the Review Application for review of the Judgment and Order dated 20.03.2017 passed in MA 21-2015 arising out of TA-06/2012.
2. Heard Mr. Chandra Baruah, learned CGSC appearing for the applicants and Mr. R.Thadani, learned counsel appearing for the respondent.
3. Chapter IV of Section 21 of the Armed Forces Tribunal Act,2007 (in short the Act, 2007) deals with the procedure with regard to the application which can be admitted under the Act. As per Section 21, the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of the remedies available to him under the Army Act,1950 (46 of 1950) or the Navy Act,1957 (62 of 1957) or the Air Force Act,1950(45 of 1950) , as the case may be.
4. Section 22 of the Act, 2007 speaks about limitation in respect of the application filed under section 21 of the Act, 2007.
5. Rule 18 of the Armed Forces Tribunal (Procedure) Rules,2008 deals with the application for review and read as under :

*" **18.Application for review** – (1) No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the Order sought to be review .*

(2) An application for review shall ordinarily be heard by the same Bench which has passed the Order , unless the Chairperson may, for reasons to be recorded in writing , direct it to be heard by any other Bench.

(3) Unless otherwise ordered by the Bench concerned, an application for review shall be disposed of by circulation where the Bench may either dismiss the application or direct notice to be issued to the opposite party.

(4) Where an application for review of any Judgment or Order has been disposed of, thereafter no application for further review shall be lie.

(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."

6. Admittedly, in this case there is delay of 246 days in filing the Review Application and considering Rule 18 of the AFT (Procedure) Rules, 2008, no application for review can be entertained beyond 30 days from the date of receipt of a copy of the order sought to be reviewed.

7. In that view of the matter, this Misc. Application for condonation of delay to entertain the Review Application No.01/2017 stands rejected.

MEMBER (A)

MEMBER (J)

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