

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**CP No-266/2019 in
OA No-1057/2019
MA No-214/2020**

New Delhi, this the 14th day of February, 2020



Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Dr. Ashok Kumar Aswal
S/o Sh. J.P. Aswal
R/o M-80 (2nd Floor) Guru Harkrishan Nagar
Paschim Vihar, New Delhi-87. ... Petitioner

(through Sh. Ajesh Luthra)

Versus

1. Sh. Pranab Kumar Das
Chairman
Union of India
Central Board of Indirect Taxes and Customs
Ministry of Finance, Govt. of India
Department of Revenue North Block, New Delhi-01.
2. Sh. Ajay Bhushan Pandey
Secretary
The Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
North Block, New Delhi-01. ... Respondents

(through Sh. Rajnish Prasad)

ORDER (Oral)**Mr. Justice L. Narasimha Reddy, Chairman**

The petitioner, in the CP filed OA No. 1057/2019 feeling aggrieved by the pendency of the disciplinary proceedings against him. The OA was disposed of on 05.04.2019 directing that the proceedings shall be concluded within six weeks of the date of receipt of a copy of the order and, in default the applicant shall be treated as not facing any disqualification, in the context of promotion and other benefits. This contempt case is filed alleging that the order in the OA was not complied with.

2. The respondents filed an application for extension of time stipulated in the order in the OA. On behalf of them, it is stated that the Disciplinary Authority has since forwarded the report of the charged officer to the UPSC and its advice is awaited. It is also stated that the applicant was retired on compulsory basis, through an order dated 18.06.2019, by invoking FR 56 (j).

3. On 17.01.2020, we took note of this development and wanted the learned counsel for the parties to address the question, as to the nature of steps that need to be taken, in the light of them. Today, we heard Sh. Ajesh Luthra, learned counsel for the petitioner and Sh. Rajnish Prasad, learned counsel for the respondents, in detail.



4. The direction issued in the OA was to conclude the disciplinary proceedings, within six weeks and if for any reason, the disciplinary proceedings are not concluded, the respondents shall treat the applicant as not reeling under any disqualification, for promotion. It is no doubt true, that the respondents did not conclude the proceedings within six weeks. However, it is difficult to infer that, on expiry of six months, the petitioner is entitled to be promoted, as a matter of course. The matter was required to be considered by the selecting agency as well as the Appointing Authority. Unfortunately for the petitioner, he came to be compulsorily retired on 18.06.2019. While the disciplinary proceedings got converted into those under the Pension Rules, the occasion to consider his case for promotion ceases to exist.

5. We, therefore, close the contempt case as well as the MA. We, however, make it clear that, in case the petitioner is successful in his effort to challenge the order of compulsory retirement, his claim relating to the promotion, as ordered in the OA, shall be treated as relevant.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ns/