



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1766/2020

This the 18th day of January, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Sh. Virendra Arora, age 59 years, S/o Late Sh. Jagdish Raj, R/o 33, Kapil Vihar, Pitampura, Delhi – 110034. Retired as Assistant Director in DGH RD under the Central Board of Indirect Taxes & Customs.

... Applicant

(Applicant in person)

Versus

1. The Union of India through the Secretary, Department of Revenue, North Block, New Delhi.
2. The Central Board of Indirect Taxes & Customs, Through the Chairman, CBIC, North Block, New Delhi.
3. The Secretary, Department of Personnel and Training, North Block, New Delhi.
4. The Pr. Chief Controller of Accounts, Central Board Indirect Taxes and Customs, AGCR Building (1st Floor) New Delhi- 110009.
5. The Chief Commissioner of Central Excise & CGST, Delhi Zone, CR Building, IP Estate, New Delhi – 110009.
6. The Directorate General of Human Resource Development, through the Director General, 2nd& 3rd Floor, Bhai Veer Singh Marg, Sahitya Sadan, New Delhi – 110001.

... Respondents

(through Mr. Rajpal Singh, Advocate)

ORDER (Oral)



Justice L. Narasimha Reddy, Chairman:

The applicant took voluntary retirement from the service of Central Board of Indirect Taxes and Customs w.e.f. 16.01.2020. Earlier, he filed OA No. 3612/2018 challenging para 8.1 of the DOPT OM dated 20.06.2016 in the context of denial of benefits under MACP. During the pendency of that OA, the applicant was issued a show cause notice dated 10.10.2019, requiring him to explain as to why his pay structure be not altered by rearranging the grade pay which was extended to him, in the form of MACP. The applicant submitted a short reply dated 21.10.2019 stating that he has already filed OA No. 3612/2018, and that the OA, together with the counter by the Department, the Rejoinder and the written arguments filed by him, may be treated as a representation. The respondents passed an order dated 04.11.2019 in the lines indicated in the show cause notice, 10.10.2019. This was followed by corrigendum dated

08.05.2020. This OA is filed challenging the order dated 04.11.2019 and corrigendum dated 08.05.2020.



2. The applicant contends that the respondents did not take into account, any of the points raised by him in the explanation and that the impugned order cannot be sustained either on facts or in law.

3. We heard the applicant who argued the case in person and Mr. Rajpal Singh, learned counsel for the respondents.

4. The challenge in this OA is to the order dated 04.11.2019 and the corrigendum dated 08.05.2020. Both of them are in relation to the pay structure of the applicant. The respondents issued a show cause notice dated 10.10.2019. The details of proposed pay structure and reasons thereof were indicated. The only reply given by the applicant to the same reads as under:-

“It is submitted that I have already filed an Original Application bearing NO. 3612/2018 and Rejoinder to the counter by the Department. The contents of the OA and Rejoinder may please be considered as my written submissions and the matter be decided. I do not want any personal hearing.”

5. The applicant was under the impression that the pleadings in OA 3612/2018 would hold good as response to the show cause notice.

6. The two factors become relevant here. The first is that no official or authority can take into account, the pleadings in a case before a court of law. Any such attempt would amount to expressing a view on the issue that is already pending adjudication. Secondly, the OA was withdrawn by the applicant on 15.12.2020. The net result is that there was no effective representation to the show cause notice and the applicant has permitted the respondents to proceed with the matter as proposed. We are of the view that even now the applicant can point out the discrepancies, if any, in the impugned order, particularly, when he could not make his defence effectively when a show cause notice was issued.

6. We, therefore, dispose of the OA leaving it open to the applicant to make a representation pointing out the discrepancies or defects, if any, in the impugned order dated 04.11.2019 and corrigendum dated 08.05.2020. As and when such a representation is made by the applicant, the



respondents shall pass a reasoned order within a period of two months thereafter. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

lalit/rk./ankit/sd