

**Central Administrative Tribunal
Principal Bench**

OA No.1768/2017

New Delhi, this the 19th May, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Anish Gupta, Aged 32 years
S/o Shri Rajnish Gupta
IRS(C&CE:2009)
R/o 344, Nimri Colony
Delhi-110052.

..Applicant

(By Advocate: Shri Prateek Tushar Mohanty)

Versus

1. Union of India through
The Secretary, Department of Revenue
Ministry of Finance, North Block
New Delhi-110001.
2. The Chairperson, Central Board of Excise
And Customs(CBEC), Department of
Revenue, M/o Finance, North Block
New Delhi-110001.
3. The Inquiring Authority and Additional
Commissioner (Shri Sugriva Meena)
Office of the Commissioner of Customs(IV)
Air Cargo Complex, Sahar
Andheri (East), Mumbai-400099. .Respondents

ORDER (ORAL)

Justice Permod Kohli, Chairman :-

Issue notice. Shri Hanu Bhaskar, learned standing
counsel, appears and accepts notice on behalf of
respondents.

2. The applicant has sought the following reliefs in the present OA:-

“8.1 to allow the present Application;

8.2 to quash and set aside the Notice dated 05.05.2017, as being bad in law;

8.3 to direct Respondent No.3 to refrain from holding the enquiry till disposal of the Representations of the Applicant.

8.4 to direct the Respondent Ministry to dispose the Representations of the Applicant by a reasoned and speaking Order within a specified time.”

3. In so far as the relief contained in para 8.2 is concerned, the impugned communication dated 05.05.2017 has been addressed to the Defence Assistant. The impugned communication reads as under:-

“Kindly refer to your office letter vide F.No. TRM/DDG/DISABILITY/2016-17 dated 03.05.2017 addressed to the undersigned wherein you had requested for changing hearing dates from 18.05.2017 to 15th or 16th May, 2017.

Your request has been accepted and hearing in the case shall be held on 16.05.2017 11.30 Hrs at O/o Additional Commissioner of Customs (Export), Air Cargo Complex, Sahar, Andheri(E), Mumbai-99.”

4. From perusal of the aforesaid communication, it appears that the request of the defence assistant for change of date from 18.05.2017 to 15th or 16th May, 2017 has been accepted and the hearing was fixed for 16.05.2017. We fail to understand how the applicant can be said to be aggrieved of this communication. The Original Application to that extent is totally misconceived.

5. The main grievance of the applicant seems to be relating to relief No.8.4. The applicant has made a representation dated 20.02.2017 alleging *bias* against the inquiry officer. His grievance is that despite his representation to the inquiry officer, no decision has been taken thereon and the inquiry officer is proceeding with the inquiry. We are of the considered view that the disciplinary authority should at least take a decision on the representation of the applicant.

6. In this view of the matter, we dispose of this OA at the admission stage itself without going into the merits of the controversy with a direction to the

disciplinary authority to take decision on the representation of the applicant(Annexure A-2) dated 20.02.2017 within a period of two weeks from the date of receipt of a copy of this order.

(K.N. Shrivastava)
Member(A)

(Justice Permod Kohli)
Chairman

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