

**Central Administrative Tribunal
Principal Bench**

**OA No.1841/2019
WITH
OA No.1546/2019**

New Delhi, this the 9th day of August, 2019

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

OA No.1841/2019

Ashok Kumar Saroha
S/o Late Shri Tilak Ram Saroha
Commissioner of Income Tax (Appeals)-23
Office of the Commissioner of Income Tax (Appeals)-23
254, Income Tax Office (2nd Floor)
Jhandewalan Extn., New Delhi-110055. ...Applicant

(By Advocate: Sh. Yogesh Sharma)

Vs

1. Union of India
Through its Secretary
Ministry of Law and Justice
Department of Legal Affairs
Shastri Bhawan, Dr. Rajendra Prasad Road
New Delhi-110001.
2. Sh. Rakesh Kumar, Under Secretary (DT/Pers)
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
New Delhi-110001.
3. Sh. Sunil Sachdeva
Under Secretary to the Government of India
Ministry of Law and Justice
Department of Legal Affairs
Dr. Rajendra Prasad Road
Shastri Bhawan, New Delhi-110001.
4. Sh. Arvind Kumar, DDIT (CMD-3)

Ministry of Finance
 Department of Revenue
 Directorate of Human Resource Development
 Central Board of Direct Taxes
 Gate No.1, 2nd Floor
 Jawaharlal Nehru Stadium
 New Delhi-110003. ...Respondents

(By Advocates: Shri Hanu Bhaskar and Shri S.N. Verma)

OA No.1546/2019

Ramawtar Yadav, Age 58 years
 S/o Late Sh. Lekh Ram Yadav
 Additional Legislative Counsel (Hindi)
 R/o 1026, Rajnigandha Apartment
 Plot No.4, Sector 10, Dwarka
 New Delhi-110075. ...Applicant

(By Advocate: Sh. Yogesh Sharma)

Vs

Union of India & Anr. through

1. Secretary, Ministry of Law and Justice
 Department of Legal Affairs
 4th Floor, Shastri Bhawan
 New Delhi-110001.
2. Secretary, Ministry of Law and Justice
 Legislative Department
 4th Floor, Shastri Bhawan
 New Delhi-110001. ...Respondents

(By Advocates: Shri Hanu Bhaskar and Shri S.N. Verma)

ORDER(ORAL)

Justice L. Narasimha Reddy:

In these two OAs, the grievance of the applicants is that their applications for selection to the post of

Member, Income Tax, Appellate Tribunal are not being treated as valid on account of the fact that their APARs were not received before the stipulated date i.e. 20.08.2018. The learned counsel for the applicants submits that the forwarding of the APARs was in the hands of the department and they had no control over that aspect.

2. While admitting the OAs Nos.1546/2019 and OA No.1841/2019, interim orders were passed on 20.05.2019 and 21.06.2019, respectively. It was directed that the feasibility of including the name of the applicant in the list of candidates to be interviewed, shall be considered if he has fulfilled other conditions, ignoring the fact that the APARs were received at a later point of time.

3. Heard Shri Yogesh Sharma and Shri M.D. Jangra for Shri Yashpal Rangi, learned counsel for the applicants and Shri Hanu Bhaskar and Shri S.N. Verma, learned counsel for the respondents.

4. The only issue that arises for consideration in these OAs is as to whether the applications submitted

by the applicants can be treated as holding good to enable them to be considered for selection. It was on account of the fact that their APARs were not received by the concerned agency by 20.08.2018. Even while passing the interim order, the fact that the Ministry of Law and Justice has forwarded particulars of three candidates long after 20.08.2018, was taken note of.

5. The respondents have not filed any counter affidavit so far. However, it is brought to our notice that the applications of the applicants were forwarded to the selection committee.

6. We, therefore, dispose of the OAs by directing that the case of the applicants shall be considered by the selection committee for appointment to the post of Member, Income Tax Appellate Tribunal without taking into account, the aspect of delay as regards the receipt of APARs. It is needless to mention that the selection committee shall be entitled to examine the other aspects. There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/