

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2543/2019
M.A. No.2900/2019

Wednesday, this the 11th day of September 2019

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

1. Ms. Ashima Neb, IRS
Senior Department Representative,
ITAT B Bench, New Delhi
r/o L-108, Sector 25, Noida, Uttar Pradesh

2. Ms. Shumana Sen, IRS
Additional Commissioner of Income Tax, Dehradun
r/o B-602, The Crescent, Sector 50
Noida, Uttar Pradesh

..Applicants
(Mr. Vibhor Garg, Advocate)

Versus

1. Union of India
Through Department of Personnel & Training
North Block, Central Secretariat, New Delhi – 110 001

2. Ministry of Finance
Through Department of Revenue,
Ministry of Finance,
North Block, New Delhi – 110 019

..Respondents
(Mr. Ravi Prakash, Mr. Aman Malik and Mohd. Shahan Ulla,
Advocates)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

This O.A. has undergone several stages. The grievance of the applicants was that their cases are not being considered for promotion to the post of Commissioner of Income Tax. The reason for non-consideration was that permission was accorded

for their prosecution and that criminal proceedings were also initiated. On its part, the Department of Personnel & Training (DoPT), the 1st respondent herein, on 13.05.2019 opined that the applicants cannot be given the vigilance clearance for the purpose of promotion.

2. Initially the applicants approached the Hon'ble High Court of Delhi and thereafter the matter was transferred to this Tribunal. The O.A. underwent few adjournments in the Tribunal also. Though we directed that the affidavit of the Joint Secretary be filed, today an affidavit of Deputy Commissioner of Income Tax is filed. We do not treat the same as compliance.

3. Learned counsel for applicants submits that not only the prosecution, that was initiated against the applicant, but also the permission accorded by the competent authority were withdrawn, having regard to the fact that departmental appeals filed by the applicants were allowed. If these developments have any bearing upon the view taken by the DoPT, it is for the applicants to bring this fact to their notice, through proper channel.

4. When the same was pointed out, learned counsel for applicants sought permission of this Tribunal to withdraw the O.A. with liberty for the applicants, to bring to the notice of DoPT, the developments, that have taken place in the Ministry of Revenue, vis-à-vis their cases.

5. Permission is accorded and the O.A. is accordingly dismissed as withdrawn, leaving it open to the applicants to take necessary steps in accordance with law. It is needless to mention that if the applicants feel aggrieved at a later stage, it shall be open to them to pursue the remedies, in accordance with law.

6. M.A. No.2900/2019 is filed by Mr. S K Srivastava, with a prayer to implead him as one of the respondents in this O.A. He contends that certain allegations have been made against him in the body of O.A./W.P. Since we are not disposing of the O.A. on merits and it has been withdrawn, we are of the view that it is not necessary to implead him at this stage.

7. M.A. is accordingly rejected. It is needless to mention that it shall be open for him to pursue the remedies, if any, in accordance with law.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 11, 2019
/sunil/