

COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

35.

OA 1226/2020 with MA 3170/2023

WO S Mandal (Retd)

..... Applicant

VERSUS

Union of India and Ors.

..... Respondents

For Applicant : Ms. Prachi Chaturvedi, proxy for  
Mr. Manoj Kr Gupta, Advocate

For Respondents : Ms. Devangi, proxy for  
Mr. Harish V Shankar, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)  
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER  
09.08.2024

The counter affidavit has not been filed by the respondents in terms of directions dated 05.02.2021, 05.04.2021, 14.02.2023, 10.07.2023, 03.10.2023, 18.12.2023, 19.02.2024 and 03.05.2024 till date.

2. A submission was made on 03.10.2023 on behalf of the respondent that the counter affidavit was ready and the same would be filed during the course of the day. The same was permitted to be filed accordingly with the receipt of costs as imposed vide order dated 10.07.2023 being placed on the record.

3. MA 3170/2023 has been filed by the respondents which had also been considered on 03.10.2023 when the counter affidavit was permitted to be filed subject to the receipt of costs being placed on the record.

4. A submission is now made by the learned counsel Ms. Devangi appearing as a proxy counsel as stated by his under instructions from the counsel Mr. Harish V Shanker for the respondents that the respondents are willing to file the counter affidavit, if costs as imposed vide order dated 10.07.2023 are waived and it is further submitted to the effect that the taxpayer ought not to be burdened with the costs, with the further submission made on behalf of the respondents that the present OA has been filed with much delay, and thus consequently the costs imposed on the respondents be waived.
5. It is essential to observe that MA 1413/2020 filed by the applicant has been disposed of vide order dated 14.02.2023, and apparently it has been allowed in terms of verdict of the Hon'ble Supreme Court in the matter of *UOI & Ors Vs Tarsem Singh* 2009(1)AISLJ 371 and in *Ex Sep Chain Singh Vs Union of India & Ors* (Civil Appeal No. 30073/2017 , and in terms of the said verdicts, relief, if any, granted to the applicant would be limited and confined to a period of three years prior to the institution of the OA.
6. The submission made on behalf of the respondents seeking waiver of costs as imposed vide order dated 31.07.2023 is declined and the application MA 3170/2023 is dismissed with costs of Rs. 10,000/- to be paid to the applicant vide a demand draft in his named on the next date of hearing.

7. The counter affidavit be taken on record only on submission of the receipt of costs as imposed vide order dated 10.07.2023 and as imposed vide the order of even date herein above, failing which, right to file the counter affidavit of the respondents would stand closed automatically, which receipt of costs in terms of order dated 10.07.2023 be filed within a period of three weeks without default.

8. Re-list the matter on 11.09.2024.

(JUSTICE ANU MALHOTRA)  
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)  
MEMBER (A)