

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

16

NEW DELHI

O.A. No. 1/91  
T.A. No.

199

DATE OF DECISION 8.10.1991

Shri Jugal Kishore Goyal	Petitioner Applicant
Shri P.P. Khurana	Advocate for the Petitioner(s) Applicant
Versus	
Union of India through Secy., Miny. of Finance & Another	Respondent
Shri R.S. Aggarwal	Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who is working as Deputy Commissioner of Income Tax, is aggrieved by the action of the respondents in the adoption of 'sealed cover' procedure in the matter of grant of Selection Grade (Non-functional) to him and his promotion to the post of Commissioner of Income Tax.

The Departmental Promotion Committee (D.P.C.) for the grant of Selection Grade (Non-functional) met on 23.8.1990 and the D.P.C. for considering his case for promotion to the post of Commissioner of Income Tax was held in April, 1988 and 20.9.1990. At that point of time, no disciplinary/

criminal proceeding was pending against him. The Supreme Court has held in Union of India Vs. K.V. Janakiraman, U.T. 1991 (3) /S.C. 527, that the 'sealed cover' procedure is to be resorted to only after the charge-memo/charge-sheet is issued. The salient points decided by the Supreme Court in this regard have been discussed in our judgement dated 8.10.1991 in OA-2582/90 - S.K. Sharma Vs. Union of India & Others. On 1.1.1991, the Tribunal passed an interim order directing the respondents to give effect to the recommendations of the Review D.P.C. held in April, 1988 pursuant to the orders of the Supreme Court in Civil Appeal Nos.1602 to 1604 of 1990 arising out of SLP Nos.5086 to 5088/90 as well as regular D.P.C. held in September, 1990 in regard to the fitness of the applicant for promotion to the post of Commissioner of Income Tax. It was further directed that if the applicant has made the grade for promotion as Commissioner of Income Tax in either of the said D.P.C.s, the respondents shall promote him from the date when his next immediate junior was promoted.

2. The learned counsel for the applicant stated that the applicant has not been granted Selection Grade (Non-functional) <sup>promoted</sup> or as Commissioner of Income Tax. The learned counsel for the respondents stated that the case of the applicant for promotion has been submitted to the Appointments Committee of the Cabinet.

3. In view of the judgement of the Supreme Court in Janakiraman's case, mentioned above, we allow the application. The respondents are directed to open the sealed cover in regard to the recommendations of the D.P.C. for placement of the applicant in the Selection Grade (non-functional) and give effect to those recommendations. The applicant shall be entitled to arrears of pay and allowances with effect from the date his immediate junior was granted Selection Grade. The interim order dated 1.1.1991 regarding promotion of the applicant as Commissioner of Income Tax is made absolute. In addition, he would also be entitled to all consequential benefits.

4. There will be no order as to costs.

*(B.N. Dhoundiyal)*  
(B.N. Dhoundiyal) 9/10/91  
Administrative Member

*(P.K. Kartha)*  
(P.K. Kartha) 9/10/91  
Vice-Chairman (Judl.)