

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.145/91

DATE OF DECISION: 6.1.92

K.P. KARUNAKARAN

...APPLICANT

VERSUS

UNION OF INDIA

...RESPONDENTS

CORAM:

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT SHRI P.P. KHURANA COUNSEL

FOR THE RESPONDENTS SHRI R.S. AGGARWAL, COUNSEL

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Shri P.P. Khurana, learned counsel for the applicant submitted that DPC for the post of Deputy <sup>was</sup> Commissioner of Income tax/held in the month of February, 1991. In pursuance of the recommendation of the said DPC, the respondents issued order dated 17.5.91, promoting 36 Assistant Commissioner of Income tax (Senior Scale) to the grade of Deputy Commissioner of Income tax. Out of the 36 persons so promoted the officers at srl. No.19-36 are junior to the applicant herein. The learned counsel submitted that the applicant was issued a show cause notice on 10.8.88 to which he had given his explanation. Thereafter no charge memo was served on him. According to the law, unless there is a chargesheet served on or prior to the date of Departmental Promotion Committee the recommendation relating to the applicant cannot be placed in the sealed cover.

2. The learned counsel for the respondents did not dispute the facts of the case.

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3. We have considered the rival contentions and perused the records carefully. In **K. Ch. Venkata Reddy & Ors. v. UOI & Ors.** **Full Bench Judgements CAT Vol.I 158** it was laid down that the sealed cover procedure can be adopted only in those cases where a charge memo is served on or before the date of holding of the DPC. If no charge memo is served the disciplinary proceedings cannot be said to be pending against the applicant. The said judgement has been confirmed by the Hon'ble Supreme Court with slight modifications in regard to the payment of arrears in the case of **UOI etc. etc. v. K.V. Jankiraman etc. etc. 1991 (3) JT SC 527**. Further the sealed cover in respect of the applicant has been opened in accordance with our directions vide order dated 18.6.1991 and the applicant has been promoted subject to the out-come of this application. However, in view of the facts now established and the law declared by the Hon'ble Supreme Court in **UOI etc. etc. v. K.V. Jankiraman** (supra) the promotion of the applicant in accordance with the recommendation of the DPC has accordingly become final. In view of the fact that promotion has already been ordered the application has become infructuous except to the extend of consequential reliefs. In this case there was no chargesheet served on the applicant nor any disciplinary proceedings initiated. In that view of the matter the applicant is entitled to grant of full consequential benefits. He shall be entitled to back wages from the date his next junior was promoted in pursuance of the DPC proceedings of February, 1991. We order accordingly. No costs.

*J. P. Sharma*  
(J.P. SHARMA) 6.1.92  
MEMBER (A)

6.1.1992.

*I. K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER (A) 6.1.1992