

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 238/91
T.A. No.

199

DATE OF DECISION 8.10.1991Shri S.K. Bhatnagar~~Petitioner~~ ApplicantShri P.P. KhuranaAdvocate 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 granting of Selection Grade (Non-functional) to him and promotion to the post of Commissioner of Income Tax. A Departmental Promotion Committee (D.P.C.) met on 23.8.90 to consider the question of grant of Selection Grade. A D.P.C. for considering his promotion to the post of Commissioner of Income Tax was held in April, 1988. At the relevant point of time of the meeting of the DPCs,

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no disciplinary/criminal proceeding was pending against him. However, disciplinary proceeding was initiated against him by issuing a memorandum under Rule 14 of the C.C.S. (CCA) Rules, 1965 on 11.3.1991. 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-2582/91 - S.K. Sharma Vs. Union of India & Others. On 25.1.1991, the Tribunal passed an interim order directing the respondents to open the sealed cover and give effect to the recommendations of the D.P.C. as regards his fitness for promotion to the post of Commissioner of Income Tax.

2. The learned counsel for the applicant stated that the applicant has not been granted Selection Grade (non-functional) though he has been promoted as Commissioner of Income Tax with effect from 6.3.1991.

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 relating to the grant of Selection Grade (non-functional) to the applicant and give effect to the

recommendations made by the D.P.C. He would also be entitled to arrears of pay and allowances as regards the grant of Selection Grade (non-functional) as well as promotion as Commissioner of Income Tax with effect from the date his immediate junior was promoted.

4. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 8/10/91
Administrative Member

P.K. Kartha
(P.K. Kartha) 8/10/91
Vice-Chairman (Judl.)