

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 72/1991

Date of decision: 14.07.1992

Shri Suman Gupta

...Applicant

Vs.

Union of India & Another

...Respondents

For the Applicant

...Shri P.P. Khurana,
Counsel

For the Respondents

...Shri R.S. Aggarwal,
Counsel

CORAM:

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

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

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT (ORAL)
(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

We have heard the learned counsel of both parties and have gone through the records of the case. The grievance of the applicant has been substantially redressed by the respondents by passing Order No. 116/1991 on 29.07.1991 whereby the applicant has been promoted as Assistant Commissioner of Income-tax (Junior Scale) with effect from 27.03.1991. This promotion has been given to the applicant from the date his junior was so promoted. The above mentioned order also contains a stipulation that the applicant would not be entitled to any

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arrear of pay etc.

2. The learned counsel for the applicant stated that in accordance with the decision of the Supreme Court in Union of India & Others Vs. K.V. Jankiraman & Others, 1991(4) SCC 109, the applicant is entitled to arrears of pay and allowances from the due date to the date of actual promotion. This is being opposed by the learned counsel for the respondents who states that no such prayer was made in the original application filed by the applicant. He further submitted that the prayer for grant of promotion was made only in MP 1535/91 filed by the applicant wherein he had prayed that the sealed cover should be opened and that the recommendations of the DPC held in March, 1987 shall be given effect to.

3. In our view, the applicant is entitled to succeed in view of the judgment of the Supreme Court in Jankiraman's case. Though the applicant has not specifically made a prayer ^{as in the main application 2} for the grant of arrears of pay and allowances from the due date to the date of actual promotion, he had prayed for giving promotion to him from the date his immediate junior was promoted and for the consequential relief.

4. Now that the applicant has been promoted by the respondents, the stipulation in the order passed by the respondents on 29.07.1991 that the applicant will not be

entitled to any arrears of pay and allowances is not legally warranted. in Jankiraman's case, the Supreme Court has observed that FR 17 which incorporates the principle of "no work no pay" would not apply to a case where the applicant had been denied work for no fault of his.

5. After hearing both parties, the application is allowed and we have taken on record the Office Order No.116/1991 issued by the respondents on 29.07.1991. We further direct that the applicant shall be paid arrears of pay and allowances from 29.03.1991 to 29.07.1991. The respondents shall do so as expeditiously as possible but preferably within a period of 3 months from the date of receipt of this order. The application is disposed of accordingly.

There will be no order as to costs.

B.N. Dhoondiyal
(B.N. DHOUNDIYAL)
MEMBER (A)
14.07.1992

P.K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN (J)
14.07.1992

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