

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.465/96

Wednesday, this the 19th day of June, 1996.

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN  
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K Narayanan,  
Retired Supervisor Gr.I,  
Income Tax Department,  
residing at 'Sreepadam'  
Puliparambil Lane,  
Kanattukara,  
Trichur-680 011.

- Applicant

By Advocate Mr PS Nandanam

Vs

1. Chief Commissioner of Income Tax,  
Central Revenue Building,  
I.S. Press Road,  
Ernakulam North,  
Kochi-682 018.
2. Secretary,  
Central Board of Direct Taxes,  
North Block,  
New Delhi-110 001.
3. Union of India represented  
by its Secretary,  
Ministry of Finance,  
Department of Revenue,  
North Block,  
New Delhi-1.

- Respondents

By Advocate Mr KS Bahuleyan for Mr TPM Ibrahim Khan,  
Senior Central Government Standing Counsel

The application having been heard on 19.6.96 the Tribunal  
on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant seeks to quash A2 order, denying him arrears  
of wages for the period 4.12.89 to 4.6.93. While the applicant

was working as Supervisor Grade-II, misconduct was alleged against him, an enquiry was held and eventually he was exonerated. Upon that, he was promoted with retrospective effect from 4.12.89. He actually assumed charge of the higher post only on 4.6.93.

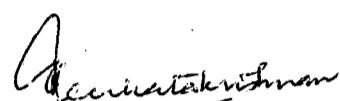
2. The short question is whether denial of emoluments of the higher post was due to a mistake on the part of respondents or not. In Union of India and others Vs KV Jankiraman and others, (1991)4 SCC 109, the Supreme Court held that an employee who was wrongly denied promotion should not lose emoluments which he would have received, but for the mistake committed by the employer.

3. As we noticed, applicant was proceeded against as a "refund racket" had taken place in the section, of which he was the Supervisor. Holding an enquiry on the basis of such an allegation, is certainly not a mistake committed by the Government. But, whether such an enquiry needed four years for its culmination, and whether denial of promotion due to undue delay is a matter that requires examination. In the impugned order, the Central Board of Direct Taxes has taken the view that F.R.17 governs the case. It does not. F.R.17 only lays down the rule governing grant of higher emoluments and the rule is that higher emoluments will be admissible from the date of assumption of duties. This is the rule in normal circumstances. But, where assumption of duties is delayed solely due to fortuitous circumstances, this rule has no application. In the light of Jankiraman's case it has to be considered whether prolonging the enquiry for four years and denying promotion on that score, was justified or not. We quash

A2 and direct second respondent to consider the matter in the light of the principles hereinbefore mentioned and pass a speaking order within four months from today.

4. Original Application is allowed as aforesaid. No costs.

Dated, the 19th June, 1996.



PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN

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