

(AS)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT
BENCH LUCKNOW.

Original Application No. 343 of 1989.

Dr. Surya Prasad..... Applicant.

Versus

Union of India & others..... Respondents.

Hon'ble Mr. Justice U.C. Srivastava-V.C.
Hon'ble ~~Hon'ble~~ Mr. A.B. Gorthi.-Member(A).

(By Hon'ble Mr. Justice U.C. Srivastava-V.C.).

As a short matter is involved in this case, the case is being heard which may be disposed of finally.

The applicant was appointed in the I.A.S. cadre in the year 1970 and was assigned the State of U.P. ~~in the year 1987~~. Some disciplinary proceedings were started against him which were concluded in the year 1987. The State Government of U.P. issued a warning to the applicant vide order dated 21.2.87. In the year 1986 selection of Super Time Scale took place. As the applicant was facing disciplinary proceedings, his case was also considered and recommendations were kept in a ~~sealed~~ ^{sealed} ~~envelope~~ cover. The ~~envelope~~ ^{sealed} cover was opened after conclusion of the disciplinary proceedings and the applicant was also allowed Super Time Scale vide order dated 28.3.87 and that it was made clear in the said order that the applicant's promotion was notional, but the applicant will not get actual scale from the date he was

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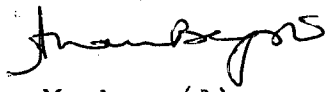
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promoted, but he ^{would} get the same only w.e.f. the date of order and in this connection the respondents have placed reliance on the office memorandum 22011/1/79. Establishment-A dated 30.1.87 issued by Government of India.

Learned Counsel for the applicant contended that the applicant not having been punished and the Government of India also decided to keep the selection date from the due date like others ^{as} ~~he~~ ^{had} ~~have~~ been found fit by the departmental promotion Committee. His selection for promotion was delayed for no fault on his part and as such he should not be deprived of the ^{benefit} ~~monetary part~~ of the same. There was always ⁴ willing-ness on his part to work at any post and actually he worked. As such he was entitled to the salary also from the date on which he was deprived and in this connection ^a reference has been made of the ^{case} ~~of the~~ Union of India and others Versus K.B. Janki Raman 1991 Supreme Court page 2010. In the said case also sealed cover procedure was adopted and the court held that when an employee ^{is} ~~completely~~ ly exonerated in criminal disciplinary proceedings and is not visited with the penalty even of ^u ~~in the least~~, he should not be deprived of any benefits including the salary of the promotional

(A7)

post. The normal rule of "no work no pay" is not applicable to such cases where the employee although he is willing to work is kept away from work by the authorities for no fault of his. The same position appears in this case and accordingly the application is allowed and the respondents are directed to give the Super Time Scale to the applicant since 29.4.86 when his juniors have been given. The payment of the arrears shall be paid to the applicant from the date within the period of three months from the date of the communication of this order. No order as to the costs.


Member (A)


Vice Chairman.

Dt: January 30, 1992.

(DPS)

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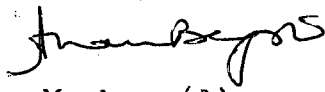
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