

No. 432/92

U.O. No.

OF 199

T.A. No.

Date of Decision: 22/2/93

..... Petitioner

..... Advocate for the petitioner.

Versus

..... Respondents.

..... Advocates for the Respondent(s)

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CORAM :-

The Hon'ble Mr. Justice U.C. Srivastava, U.C.

The Hon'ble Mr. K. Chayya, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether to be circulated to all other Benches ?

NAQVI/

Signature

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Dr. Adarsh Kumar :::::::::: Applicant

**Vs**

**Union of India & Others.**                      :::::::::::                      **Respondents.**

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Obayya, AM.

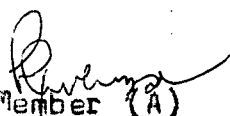
(By Hon. Mr. Justice U.C. Srivastava, V.C.)


The applicant, who was promoted as Senior Medical Officer on 1-1-82, was expecting his promotion to the post of Chief Medical Officer. In the mean-time some complaint was made against him with the result departmental enquiry was held against him. Enquiry Officer was appointed and he submitted his enquiry report on 7/2/1991. The Government of India vide order dated 22/3/91 completely exonerated the applicant. The applicant's promotion became due during the pendency of this enquiry proceedings and the D.P.C. which met for assessing the suitability of the Officers also considered the case of the applicant, but it was kept in sealed cover. After the exoneration of the applicant, the sealed cover was opened and the applicant was promoted w.e.f. 18/3/88. The grievance of the applicant is that the enquiry against him proved to be abortive and he was completely exonerated. As such his promotion should have been from the back date on which others were promoted and even he is entitled for monetary benefits arriving out of the same from the back date as he never denied the promotion and as a matter of fact it is the respondents who wrongly denied him promotion.

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2. The respondents have stated that actual promotion was given to the applicant with effect from a particular date in view of the order of Government of India, Ministry of Personnel, dated 12/1/88. This memo. was issued before the decision in the case of Union of India Vs. K.V. Janakiraman (AIR 1991 S.C. 2016). In that case directions regarding promotion to be given to a particular candidate who has been exonerated with effect from a particular date has been given.

3. As the applicant was always interested in getting promotion and he was not responsible for not getting promotion from the due date and also as a matter of fact the departmental enquiry which ended in his favour was responsible for the same, this application deserves to be allowed and the respondents are directed to promote the applicant with effect from the date his next junior was promoted when the D.P.C. met and the applicant will be given all the consequential benefits including the arrears of pay. The arrears of pay shall be paid within a period of 3 months from the date of communication of this order. The application stands disposed off finally in these terms. No order as to the costs.

  
Member (A)

  
Vice-Chairman.

Dated: 22nd February, 1993, Lucknow.

(tgk)