

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6778 of 2011

- K.R. Janardan S/o Late Shri Ajat Ram, aged about 60 years, R/o Beside Hotel Shivneri, Link Road, Distt.- Bilapur, C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through the Secretary, Department of Commercial Tax (Excise), D.K.S. Bhawan, Mantralaya, Raipur, C.G.
2. Under Secretary, Department Of Commercial Tax (Excise), Dks Bhawan, Mantralay, Raipur, Cg
3. Commissioner, Department Of Commercial Tax (Excise), Dks Bhwan, Mantralaya, Raipur, Cg
4. Additional Commissioner, Department Of Commercial Tax (Excise), Dks Bhawan, Mantralaya, Raipur, Cg

---- Respondents

For Petitioner	Shri V. K. Janardan, Advocate
For Respondent/State	Shri Shashank Thakur, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

09/02/2016

1. The present writ petition has been preferred to claim benefit of arrears of pay and other allowances of the post of Assistant Commissioner (Excise), on which the petitioner was granted proforma promotion on 10.06.2011 w.e.f. 03.09.2008.
2. It is contended by the learned counsel for the petitioner that at the time when the DPC considered all the eligible District Excise Officers

including the petitioner for promotion to the post of Assistant Commissioner (Excise) on 08.08.2008, the recommendation in respect of the petitioner was kept in sealed cover, because at that time a departmental enquiry was pending against him. On conclusion of the departmental enquiry, wherein the petitioner was exonerated, the sealed cover was opened and the order (Annexure-P-1) was passed on 10.06.2011 granting him benefit of promotion from 03.09.2008. However, wrongly applying the principle of 'No Work No Pay', the petitioner has been deprived of the benefit of salary and other allowances from 03.09.2008 till Annexure-P-1 was issued.

3. In **Union of India and others v. K. V. Jankiraman and others**, it has been held in para 7 that when an employee is completely exonerated in the departmental enquiry meaning thereby that he is not found blameworthy in the least and is not visited with the penalty even of censure, he has to be given the benefit of the salary of the higher post along with other benefits from the date on which he would have normally been promoted but for the pendency of the disciplinary/criminal proceedings.
4. In view of the law laid down by the Supreme Court in the matter of **K. V. Jankiraman** (supra), the writ petition deserves to be and is hereby allowed. The petitioner is held entitled to salary and other allowances admissible to the post of Assistant Commissioner (Excise) from 03.09.2008 till the date Annexure-P-1 was issued.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA