

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CM-16703-CWP-2016in/and
CWP-308-2008
Decided on 21.04.2017**

O.P.KATHURIA

....PETITIONER

VS

STATE OF HARYANA AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Ms. Abha Rathore, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

AJAY TEWARI, J.(Oral)

CM-16703-CWP-2016

This is an application for early hearing of the present writ petition.

For the reasons recorded in the application, the same is allowed and the writ petition is to be heard today itself.

CWP-308-2008

By this petition the petitioner has prayed to quash the portion of Annexure P-2 and letter dated 18.7.2007 Annexure P-6 wherein the respondent No.2 denied payment of arrears from date of promotion 1.9.2000 till 13.7.2004 to the petitioner.

Brief facts of the case are that on 1.9.2000 his junior were promoted and his case was not sent before the DPC(in violation of the judgment of Supreme Court in the matter of **Union of India vs. K.V.Jankiraman 1991(3) SCT 317**) on the ground that chargesheet for

minor disciplinary proceedings under Rule 8 was pending against him.

Ultimately that charge sheet was dropped vide Annexure P-7.

Thereafter the respondent No. 2 granted him promotion from the date his juniors were promoted and also gave him all other benefits but have not paid him arrears for the period when he was not permitted to work on the promoted post. These facts have been accepted by the respondents.

Learned counsel for the petitioner has placed reliance on **Union of India vs. K.V.Jankiraman 1991(3) SCT 317.** Para 25 of the judgement is as follows:

"We are not much impressed by the contentions advances on behalf of the authorities. The normal rule of "no work no pay" is not applicable to cases such as the present one where the employee although he is willing to work is kept away from work by the authorities for no fault of his. This is not a case where the employee remains away from work for his own reasons, although the work is offered to him. It is for this reason that F.R. 17(1) will also be inapplicable to such cases."

Subsequently by judgment in **Kailash Chander Sharma vs. State of Haryana and another 2012(2) S.C.T. 130** a Single Bench of this Court after placing reliance on **Union of India vs. K.V.Jankiraman 1991(3) SCT 317, State of Kerala and others v. E.K.Bhaskaran Pillai, 2007 (2) S.C.T. 757: (2007) 6 SCC 524, The Commissioner, Karnataka Housing Board v. C.Muddaiah reported as 2007 (4) SCT 452** allowed a similar claim. The above writ petition is squarely covered by these judgments.

Consequently, this petition stands allowed and respondents

are directed to pay the arrears of the difference in pay between the date from which the petitioner was given 1.9.2000 to the date when he was actually promoted i.e. on 31.7.2004. Let the said amount be computed and paid to the petitioner within 3 months from the date of receipt of a certified copy of this order failing which the petitioner would be entitled to claim interest @ 8 % per annum on the amount/s from the date/s it fell due.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stand disposed of.

21.04.2017
anuradha

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No