

PETITIONER:
UNION OF INDIA & ORS. ...APPELANTS

Vs.

RESPONDENT:
DR. J. K. GOEL ...RESPONDENT

DATE OF JUDGMENT 08/05/1995

BENCH:
MANOHAR SUJATA V. (J)
BENCH:
MANOHAR SUJATA V. (J)
VERMA, JAGDISH SARAN (J)

CITATION:
1995 SCC Supl. (3) 161 1995 SCALE (3) 550

ACT:

HEADNOTE:

JUDGMENT:
THE, 8TH DAY OF MAY, 1995

Present:
Hon'ble Mr. Justice J. S. Verma
Hon'ble Mrs. Justice Sujata V. Manohar
Mr. A. K. Sharma, Mr. S. N. Terdol, Advs. for the Appellants
Mr. Raju Rama Chandran, Mr. Prashant Kumar and Mr. Satish
Vig,

J U D G M E N T
The following Judgment of the Court was delivered:
Union of India & Ors. ...Appellants

V.
Dr. J. K. Goel ...Respondent

JUDGMENT

Mrs. Sujata V. Manohar, J.
Delay Condoned.
Special leave Granted.

This appeal is from an order of the Central Administrative Tribunal, Allahabad Bench, dated 22nd of April, 1994 in O. A. No.849/1993.

The respondent was granted selection grade (non-functional) in the post of Deputy Commissioner of Incometax with effect from 1.1.86, by an office order dated 11.3.92. The respondent was paid an amount of Rs.20,772/- pursuant to the granting of the selection grade to him w.e.f. 1.1.86, in the last week of March, 1992.

The respondent filed the above O.A. No.849/1993 before the Central Administrative Tribunal claiming interest on the said amount from 1.1.86 to the end of March, 1992. The tribunal by the impugned order has granted interest @ 12% per annum for the said period to the respondent. This order is challenged in the present appeal.

The respondent joined the Indian Revenue Service in 1969. He was promoted as Deputy Commissioner of Incometax in the year 1979. The respondent was considered for the grant of non-functional selection grade by the Departmental Promotion Committee held in May/June 1990. His case was

deferred as his Confidential Reports were not available. His name was again considered by the Departmental Promotion Committee held after 3 month in September 1990. As the integrity of the respondent was not certified by the vigilance departmental, and two memoranda had already been issued to him calling for his explanation, the findings of the Departmental Promotion Committee relating to the respondent were kept in a sealed cover in accordance with the provision contained in the DOP&T OM No.22011/2/86-East(A) dated 12th of January 1988.

The respondent approached the Central Administrative Tribunal at Delhi against the adoption of the procedure of a sealed cover in the matter of grant of selection grade to him. The Tribunal by its order dated 3rd of January, 1991 ordered the Department to give effect to the recommendations of the Departmental Promotion Committee w.e.f. 1st of January 1986, this being the date from which person junior to the respondent were granted non-functional selection grade, provided he was declared fit by the Departmental Promotion Committee.

On 16th of July 1991 a charge-sheet was served on the respondent. The Department, however, in view of the above order of the Tribunal, took steps to implement the order by adopting the appropriate departmental procedure for opening the sealed cover. When the sealed cover was opened the respondent was found fit. The requisite approval from the Finance Ministry was obtained on 5th of March, 1992. Thereafter, orders were issued granting non-functional selection grade to the respondent on 11th of March, 1992. The consequent payment 1992. We are further informed that the departmental proceedings are still pending against the respondent.

In these circumstances we have to examine whether the order of the Tribunal granting interest @ 12% per annum to the respondent for the period January 1986 to March 1992 can be upheld. In the first place, there is no provision of law under which such interest can be granted. Learned Advocate for the respondent, however, has contended before us that on equitable considerations, the Tribunal has granted interest @ 12% per annum to the respondent and we need not interfere with the discretion exercised by the Tribunal in this regard. But looking to the facts and circumstances of the present case, we cannot accept the submission made by learned Advocate for the respondent. Before any interest can be granted on equitable considerations, it is necessary that the facts of the case should be examined to ascertain whether there are any special equities which would justify the grant of such interest although there is no provision in law for such grant. We have failed to find any such equities in favour of the respondent in the present case. The respondent alongwith others was considered by the Departmental Promotion Committee for the grant of selection grade only in 1990. All those who were selected by the Departmental Promotion Committee and granted selection grade w.e.f. 1.1.86 were given the difference in salary and other emoluments soon after the issuance of the order granting them selection grade. None of them received interest from January 1986 on the amounts so paid, although they were granted selection grade w.e.f. 1.1.86. In the case of the Departmental Promotion Committee immediately and the sealed cover procedure had to be resorted to because his integrity was not certified by the Department in view of the two memoranda having already been issued to the respondent. We will assume in favour of the respondent that these memoranda as well as the chargesheet which has been

subsequently issued, are unwarranted. nevertheless, the Departmental Promotion Committee was required to adopt the sealed cover procedure for vailed reasons. it was only on account of the order dated 3rd of January, 1991 issued by the Central Administrative Tribunal, Delhi, that the sealed cover was opened, although investigations were pending and a charge-sheet had also been issued. In these circumstances selection grade was granted to the respondent by the order dated 11th of March 1992. It is difficult to see any equities in favour of the respondent which would require granting on any interst to him from 1st January, 1986 as has been done in the present case. At any rate, when the Departmental Enquiry is not complete and the respondent has not so far been exonerated of the charges made against him, the grant of interest appears to be wholly unjustified.

In the above circumstances, as we fail to see any kind of equity in favour of the respondent, the impugned order of the Tribunal is set aside and the appeal is allowed. In the circumstances, there will be no order as to costs.