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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Date of decision: 13.10.2025***

+ W.P.(C) 5824/2021

AVINASH KISHORE SAHAY

.....Petitioner

Through: Mr. Arvind Kumar and  
Ms.Devina Sharma, Advs.

versus

UNION OF INDIA AND OTHERS

.....Respondents

Through: Ms. Radhika Bishwajit Dubey,  
CGSC with Ms. Gurleen Kaur  
Waraich, Mr. Kritarth  
Upadhyay and Mr. Vivek  
Sharma, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE MADHU JAIN**

**NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed, challenging the Order dated 25.03.2021 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 257/2019, titled *Avinash Kishore Sahay v. UOI through its Secretary & Ors.*, dismissing the O.A. filed by the petitioner herein.

2. The petitioner had filed the above O.A. praying for the following reliefs:

*“(a) To direct the Competent Authority to urgently consider the case of the Applicant for promotion to Chief Commissioner of Income*



*Tax, for Empanelment to the Grade of CCIT, with all consequential relief under the law.*

*(b) To direct the Department of Revenue in the Ministry of Finance to pass the consequential Order for promotion of the Applicant as Chief Commissioner of Income Tax w.e.f. 31.12.2018, when the immediate junior to the Applicant in IRS was ordered to be promoted to this post, with all consequential relief and pay of level 16 in the pay matrix Rs. 2,05,400/- to 2,24,400/- w.e.f. 31.12.2018.*

*(c) To direct payment of appropriate interest on the difference of the salary and allowances payable to the Applicant on account of promotion to level 16 in the pay matrix, w.e.f. 31.12.2018 uptill the date such payment is made to the Applicant.*

*(d) To compensate the applicant for mental agony, harassment and the humiliation suffered on account of wrongful denial of promotion as CCIT w.e.f. 31.12.2018.*

*(e) Award costs of the present Original Application in favour of the Applicant and against the Respondents.”*

3. It was the case of the petitioner that the petitioner, who was an Indian Revenue Service Officer of 1986 batch, had been recommended, by the Department Promotion Committee (‘DPC’) held on 06.12.2018, for promotion to the post of Chief Commissioner of Income Tax for the panel year 2018. The Department of Personnel & Training (‘DOP&T’), however, *vide* communication dated 29.12.2018 informed the petitioner that the Appointments Committee of the Cabinet (‘ACC’) had deferred the case of the petitioner for promotion. Consequently, the Central Board of Direct Taxes (‘CBDT’), Department of Revenue, issued an order dated 31.12.2018 promoting officers to the post of Chief Commissioner of Income Tax, however,



not including the petitioner therein. The petitioner claimed that the deferment of promotion was contrary to the Office Memorandum no. 22011/4/1991-Estt.(A) Dated 14.09.1992 issued in implementation of the Judgment of the Supreme Court in ***Union of India & Ors. v. K.V. Jankiraman & Ors.***, (1991) 4 SCC 109. The learned Tribunal, however, dismissed the O.A. filed by the petitioner herein, observing therein that there are serious allegations against the petitioner and Charge Memos have also been issued against the petitioner. Aggrieved thereby, the petitioner has approached this Court by way of this present petition.

4. During the pendency of the OA before the learned Tribunal, the petitioner superannuated on 31.07.2020, and unfortunately, during the pendency of the present petition, passed away on 09.11.2022. The petitioner has thereafter been substituted by his legal heirs.

5. The learned counsel for the petitioner fairly admits that post the death of the petitioner, *vide* order dated 29.12.2022 passed by the CBDT, the Departmental proceedings against the petitioner have been treated as having abated and that thereafter, by a further order dated 04.09.2024, it has been directed that the petitioner be promoted to the post of Chief Commissioner of Income Tax with notional benefits. He submits that the only prayer of the petitioner left is for the actual pay between the period his juniors were promoted to the post of Chief Commissioner of Income Tax till the date of his superannuation.

6. The learned counsel for the petitioner submits that the petitioner had availed of his legal remedies immediately on denial of his promotion and therefore is entitled to the differential of pay for the



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above period.

7. We are, however, unable to accept the above prayer of the petitioner. Admittedly the petitioner did not work at the promotional post prior to his superannuation. This may be for reasons beyond his control, however, once the petitioner has not worked at the promotional post, he is not entitled to the differential of pay for the same.

8. In view of the above, the petition is disposed of.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**OCTOBER 13, 2025/ys/k/ik**