

Court No. - 20

Case :- WRIT - A No. - 8584 of 2023

Petitioner :- Sub Inspector (Civil Police) Amol Kumar Sharma

Respondent :- State Of Up Thru. Prin. Secy. Home Deptt Civil Sectt Lko
And 2 Others

Counsel for Petitioner :- Sushil Kumar Pathak, Rakesh Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.
2. Petition has been filed seeking a direction to opposite parties for opening sealed cover envelope procedure undertaken with regard to petitioner for promotion on the post of Inspector.
3. It has been submitted that petitioner was considered for promotion on the post of Inspector against selection year 2020-2021 but by means of order dated 26th December, 2022 the recommendations pertaining to him were kept under sealed procedure due to pendency of compliant case No. 3378 of 2016 under sections 376, 420, 494, 495, 504 and 506 IPC registered in Police Station Delhi Gate, District Aligarh.
4. Learned counsel for petitioner has placed reliance on judgment rendered by Supreme Court in the case of Union of India versus K.V. Jankiraman A.I.R., 1991 Supreme Court 2010 as well as paragraph 10 of the government order dated 28th May, 1997 to submit that petitioner can not be kept interminably waiting for his promotion under sealed cover and the aforesaid judgment and government order clearly takes care of the situations where sealed cover procedure has been kept pending for more than one year. It has also been submitted that subsequently petitioner has been granted anticipatory bail by the Supreme Court in Special Leave Appeal No.9303 of 2022 dated 26th July, 2023.
5. Learned State Counsel has refuted submissions advanced by learned counsel for petitioner with submission that aforesaid government order would be applicable only when sealed cover procedure has been in vogue for more than one year and in the present case, one year has not elapsed due to which sealed cover can not be opened. It is also submitted that a perusal of order dated 26th December, 2022 will also make it evident the heinous nature of charges levelled against petitioner.

6. Considering submissions advanced by learned counsel for parties and perusal of material on record, it is quite evident that the recommendations pertaining to petitioner's promotion have been kept under sealed cover vide order dated 26th December, 2022 on the ground of pendency of criminal proceedings against him.

7. Paragraph 10 of the government order dated 28th May, 1997 clearly indicates the circumstances and conditions under which sealed cover can be open and ad hoc promotion can be resorted to even during pendency of criminal proceedings.

8. In view of aforesaid, the opposite party No.2 i.e. Additional Director General of Police (Establishment), Lucknow is directed to consider petitioner's case for opening of sealed cover procedure upon elapse of one year from the order dated 26th December, 2022 in accordance with paragraph 10 of the government order dated 28th May, 1997.

Order Date :- 3.11.2023

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