

**LPA-1474-2023 (O&M)****-1-****209****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****-.-****LPA-1474-2023 (O&M)****Reserved on :- 07.11.2024****Date of Pronouncement: 19.11.2024**

Jagtar Singh Sidhu

....Appellant

VERSUS

State of Punjab and Another

....Respondents

**CORAM : HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Kamal Sehgal, Advocate for the appellant.

Mr. Maninder Singh, Sr. DAG, Punjab

-.-**SUDEEPTI SHARMA, J.**

1. The present Letters Patent Appeal under Clause 10 of Letters Patent Appeal, 1894 is preferred against the judgment dated 04.07.2023 passed by the learned Single Judge of this Court.

2. In the writ petition the appellant challenged proceedings of Departmental Promotion Committee, dated 11.11.2022 whereby 09 Block Development and Panchayat Officers were promoted as District Development Panchayat Officers (Group 'A') on the ground that they were junior to the appellant and the case of appellant was kept in a sealed cover due to pendency of FIR No.14, dated 25.06.2018, under Sections 7, 13(2) of the Prevention of Corruption Act, 1988 and under Section 120-B of the Indian Penal Code, 1860, registered against the appellant and others at Police Station Vigilance Bureau, Bathinda. Further a direction was sought in the writ petition to the respondents to



consider and promote the appellant to the post of District Development and Panchayat Officer w.e.f the date, the persons junior to him have been promoted and to grant all consequential benefits to the appellant including seniority, pay and increments etc., along with interest @ 18% per annum.

3. Learned counsel for the appellant contends that in the impugned judgment dated 04.07.2023, learned Single Judge has not fully appreciated the facts of the case. He further contends that observations made by the learned Single Judge are contrary to the settled proposition of law by Hon'ble Supreme Court in ***Union of India Vs. K.V.Jankiraman 1991 (4) SCC 109***. Therefore, he prays that the present appeal be allowed and the judgment passed by the learned Single Judge be set aside.

4. *Per contra*, learned State counsel contends that the writ petition filed by the appellant was rightly dismissed by the learned Single Judge.

5. We have heard learned counsel for the parties and perused the whole record of this case.

6. A perusal of the record shows that as per letter dated 20.06.2022 received from Senior Superintendent of Police, Vigilance Bureau, Bathinda Range, the brief background is that a case of embezzlement of government money by Mandeep Singh S/o Baldev Singh Village Bhani Bagha, District Mansa was pending with the appellant since he was posted as District Development and Panchayat Officer, Mansa. A deal of Rs.2,20,000/- was settled between Mandeep Singh, the complainant, Rakesh Kumar, Superintendent and the appellant. When the house of appellant was searched, an amount of Rs.99,000/- was recovered from his house. This action was part of the trap laid down by the Vigilance Bureau Bathinda and the appellant was arrested on 25.06.2018, on bribery charges and FIR



No. 14 U/s 7, 13(2) Prevention of Corruption Act 1988 and 120-B IPC was registered, against him and other.

7. Further, pursuant to the FIR, he was placed under suspension by the department on 18.07.2018 w.e.f 25.06.2018. The appellant was reinstated on 21.12.2018. Thereafter, on 05.05.2023, a chargesheet under Rule 8 of Punjab Civil Services (Punishment and Appeal) Rules, 1970 was issued to him. Meanwhile, prosecution sanction against the appellant was also given by the department to the Vigilance Bureau on 15.03.2023, which was earlier denied.

8. The relevant portion of the judgment dated 04.07.2023 passed by the learned Single Judge is reproduced as under:-

“6. *I have considered the submissions.*

7. *In Union of India v. K.V.Jankiraman’s case (supra), the Supreme Court had an occasion to examine the aspects regarding adopting of the ‘sealed cover procedure’ and had framed following questions:-*

(1) what is the date from which it can be said that disciplinary/criminal proceedings are pending against an employee?

(2) What is the course to be, adopted when the employee is held guilty in such proceedings if the guilt merits punishment other than that of dismissal?

(3) To what benefits an employee who is completely or partially exonerated is entitled to and from which date?’

On the first question, the Apex Court has observed as under:-

“ The Full Bench of the Tribunal has held that it is only when a charge-memo in a disciplinary proceedings or a



chargesheet in a criminal prosecution is issued to the employee that it can be said that the departmental proceedings/criminal prosecution is initiated against the employee. The sealed cover procedure is to be resorted to only after the charge-memo/charge-sheet is issued. The pendency of preliminary investigation prior to that stage will not be sufficient to enable the authorities to adopt the sealed cover procedure. We are in agreement with the Tribunal on this point. The contention advanced by the learned counsel for the appellant-authorities that when there are serious allegations and it takes time to collect necessary evidence to prepare and issue charge-memo/charge-sheet, it would not be in the interest of the purity of administration to reward the employee with a promotion, increment etc. does not impress us. The acceptance of this contention would result in injustice to the employees in many-cases. As has been the experience so far, the preliminary investigations take an inordinately long time and particularly when they are initiated at the instance of the interested persons, they are kept pending deliberately. Many times they never result in the issue of any charge-memo/chargesheet. If the allegations are serious and the authorities are keen in investigating them, ordinarily it should not take much time to collect the relevant evidence and finalise the charges. What is further, if the charges are that serious, the authorities have the power to suspend the employee under the relevant rules, and the suspension by itself permits a resort to the sealed cover procedure. The authorities thus are not without a remedy. It was then contended on behalf of the authorities that conclusions nos. 1 and 4 of the Full Bench of the Tribunal are inconsistent with each other. Those conclusions are as follows:



"(1) consideration for promotion, selection grade, crossing the efficiency bar or higher scale of pay cannot be withheld merely on the ground of pendency of a disciplinary or criminal proceedings against an official;

(2)

(3)

(4) the sealed cover procedure can be resorted only after a charge memo is served on the concerned official or the charge sheet filed before the criminal court and not before."

8. *The said judgment has been followed consistently by the subsequent judgments of the Apex Court and this Court in **State Bank of Patiala v. O.P.Latka's case (supra)** while following the judgment, noticed the cut off date as on the date when the charge sheet was issued or not to the concerned delinquent.*

9. *In the present case, the petitioner was arrested on 25.06.2018 and he remained in judicial custody after 03.08.2018. He would thus, be deemed to be under suspension after the period during which he remained in jail. In view of the observations of the Apex Court, since the petitioner was under suspension for the period adopting of 'sealed cover procedure' on account of the remaining under suspension would have to be examined whether the same can be adopted even though after he was released, he rejoined his duties and continued to serve.*



10. *In the opinion of this Court, the period spent in judicial custody would be treated as period spent under suspension and therefore, the factum of remaining in suspension though for a particular period can be a sufficient ground to keep the case of an employee under 'sealed cover' and merely because the charge sheet was not filed in the criminal proceedings or that departmental inquiry was also not issued on the relevant date would not be an impediment to adopt the sealed cover. This Court further observes that a person who has been found to be involved in a case of corruption / bribery cannot be awarded promotion to a higher post.*

11. *So far as the question regarding refusal of sanction to prosecute ordered vide order dated 07.01.2022 (Annexure P-4) and subsequent granting of sanction is concerned, the same is not a matter to be examined in the present case. Question still have to be examined independently in the competent proceedings before the criminal Court. Leaving it open for the petitioner to contest the said aspect, fact remains that he remained under suspension, it means suspended during the period of arrest from 25.06.2018 to 03.08.2018 which was sufficient to adopt 'sealed cover procedure'.*

12. *Accordingly, no case for grant of relief is made out.*

13. *Petition is dismissed."*

9. A perusal of the above shows that the learned Single Judge has categorically taken into consideration each and every argument of learned counsel for the appellant. Therefore, the contention of learned counsel for the appellant cannot be accepted by this Court since the learned Single Judge has categorically



dealt with the judgment passed by the Hon’ble Supreme Court in the case of *Union of India Vs. K.V.Jankiraman (supra)*, referred to by the learned counsel for the appellant. The judgment passed by the learned Single Bench is well reasoned. It has been rightly observed by the learned Single Judge that a person who has been found to be involved in a case of corruption/bribery cannot be awarded promotion to a higher post.

10. A perusal of the record further shows that the prosecution sanction against the appellant was also given by department to the Vigilance Bureau on 15.03.2023, which was earlier denied.

11. In view of the above, we do not find any infirmity in the judgment dated 04.07.2023 passed by the learned Single Judge in CWP-3991-2023, titled as ‘Jagtar Singh Sidhu Vs. State of Punjab and another’. The same is upheld and the present appeal is dismissed.

12. Pending applications, if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

November 19, 2024
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Whether speaking/non-speaking : Speaking
Whether reportable : Yes