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

+ **W.P.(C) 3423/2017**

POKHPAL SINGH MADNAWAT (PP SINGH) Petitioner

Through: **Dr. Bharat Bhushan Parsoon, Sr. Adv.**
with Mr. Lakshay Sawhney,
Mr. Ashok K. Nagar, Mr. Vaibhav
Mishra and Ms. Sonam Priya, Adv.

versus

CENTRAL BANK OF INDIA & ANR. Respondents

Through: **Mr. R.S. Mathur, Adv.**

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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20.04.2017

CM Nos. 14953/2017 and 14954/2017 (for exemptions)

Exemptions allowed subject to all just exceptions.

Applications stand disposed of.

W.P.(C) 3423/2017

1. The present petition has been filed by the petitioner with the following prayers:

“On the foregoing submissions and in the facts and circumstances of this case, it is most respectfully prayed that this Hon’ble Court may graciously be pleased to:

A. *Issue a writ of certiorari or any other writ, order or direction thereby quashing Letter No. RON / HRD / 15-16/ 14 dated 01.04.2016, informing therein that the Petitioner’s result has been kept under sealed cover and also the letter RON/HRD/2016-17/1383 dated 03.02.2017 passed by the officers of the respondents (entailed as*

Annexure P-1 and 2);

- B. *to pass writ, order or direction in the nature of mandamus thereby directing the respondents to open the sealed cover in which the result of the petitioner has been kept and announce the same immediately with all consequential benefits;*
- C. *issue any other appropriate writ, order or direction, which this Hon'ble Court may deem fit and proper to refrain the Respondents from taking any vindictive action, against the petitioner including transfer out from Delhi, so as to handicap him to follow up the present Writ Petition,*
- D. *issue any other appropriate writ, order or direction, which this Hon'ble Court may deem fit and proper to be granted to the petitioner in the facts and circumstances of the case.*
- E. *award costs of this writ petition to the petitioner herein."*

2. Learned Senior counsel for the petitioner concedes that an FIR has been registered against the petitioner under Section 498/304(B) IPC relating to Dowry death. It is his submission that respondent could not keep the promotional proceedings of the petitioner to Scale IV in the sealed cover. He would refer to clause 5 of the Sealed Cover Procedure to contend that the same, can be resorted to if the misconduct/misdemeanour relates to his service in the Bank. He states that the charges in the FIR registered against the petitioner are not relatable to his service with the Bank. He would rely upon the judgment of the Supreme Court in the cases of ***Aryendra Nath Gupta v. Union of India and Ors. 2000 (Sup 2) JT 446; The Union of India & Ors. v. Anil Kumar Sarkar, Civil Appeal No. 2537/2013*** decided on 15th March, 2013; ***Union of India v. Kewai, Kumar*** reported as ***AIR 1993 1585 and Union of India etc. v. K.V. Jankiraman etc.*** reported as ***AIR***

1991 2010.

3. Suffice to state clause 5 of the Sealed Cover Procedure which have been relied upon by the learned counsel for the petitioner which I reproduce as under contemplates that Sealed Cover Procedure can be adopted when there is a disciplinary case and criminal prosecution instituted against an officer. The said clause does not differentiate between a criminal prosecution relatable to a misdemeanour relatable to service in the Bank or otherwise. In other words, the pendency of criminal prosecution is sufficient to keep the recommendation of the promotional proceedings in the sealed cover. The Bank is justified in adopting Sealed Cover Proceedings.

“5. Six monthly review of ‘Sealed Cover’ cases: -

It is necessary to ensure that the disciplinary case / criminal prosecution instituted against any officer is not unduly prolonged and all efforts to finalize expeditiously the proceedings should be taken so that the need for keeping the case of an officer in a sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authorities concerned should review comprehensively the cases of officers, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening the first Departmental / Directors’ Promotion Committee which had adjudged his suitability and kept his findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, inter-alia cover the progress made in the disciplinary proceedings / criminal prosecution and the future measures to be taken to expedite the completion.”

4. In so far as the judgments relied upon by the learned Senior counsel

for the petitioner, the case of *Aryendra Nath Gupta (supra)* is not applicable as the same is relatable to consideration of the petitioner for promotion after the suspension was revoked, which is not the case herein, as the case of the petitioner has been considered, but proceedings have been kept in sealed cover. In so far as the judgment of *Kewai, Kumar (supra)* is concerned, suffice to state the Supreme Court has justified the Sealed Cover Procedure adopted by the Government. This judgment would not be of any help to the petitioner. In so far as the judgment of *Anil Kumar Sarkar (supra)* is concerned, this judgment is also of no help to the petitioner inasmuch as there is a finding of the Supreme Court that no chargesheet was served on the respondent / employee when the DPC met to consider his promotion, yet the sealed cover procedure was adopted. Further this judgment has no relevance to the only issue raised by the learned Senior Counsel for the petitioner, that the misdemeanour is not related to his service in the Bank.

5. On the same reasoning, the case of *K.V. Jankiraman (supra)* is also not applicable in the facts of this case, inasmuch as in *K.V. Jankiraman (supra)* it is a case, where no charge sheet was issued to the respondent on the date of DPC. I do not find any merit in the petition. The petition is dismissed.

CM Nos. 14952/2017

Dismissed as infructuous.

V. KAMESWAR RAO, J

APRIL 20, 2017/jg