



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

235

CWP-6516-2025

Date of Decision: 08.12.2025

RAJESH BHANDARI**.....PETITIONER****Vs.****STATE OF PUNJAB AND ANOTHER****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: Mr. Rahul Sharma-I, Senior Advocate with
Mr. Rahul Aggarwal, Advocate for the petitioner.
Mr. Swapan Shorey, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. The instant petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking a writ of certiorari for quashing the order dated 03.01.2025 (Annexure P-5) and order dated 22.09.2021 (Annexure P-4) whereby the respondents have resorted to the procedure of “sealed cover” to deny the promotion to the petitioner to the post of Deputy Excise and Taxation Commissioner.

2. Learned counsel for the petitioner submits that petitioner was appointed as Excise and Taxation Officer on 20.02.2002 and, thereafter, he was promoted as Assistant Excise and Taxation Commissioner (in short, “AETC”) on 05.03.2012. While the petitioner was posted as AETC at Mobile Wing, Chandigarh-2 at Shambu, Punjab, he had levied taxes/penalties and fine totaling Rs.9,33,676/- on one of the associates of Narang Transport, Ludhiana for violating the provisions of Punjab Goods and Services Tax Act, 2017 and due to this animosity, Sh. Daljit Singh @ Tinku, one of the alleged partners of Narang Transport, Ludhiana, got lodged an FIR No.03 dated 15.01.2020,



IPC at Police Station Vigilance Bureau, Patiala against the petitioner and a driver and Sh. Vijay Kumar Ghai, on whom the petitioner had levied tax/penalty and fine, was shown as the shadow witness. The petitioner was placed under suspension vide order dated 03.02.2020 with effect from 15.01.2020, however the suspension of petitioner was revoked and he was reinstated in service vide order dated 22.08.2020. It has further been pleaded that apart from the said FIR, there is nothing adverse against the petitioner in his service career and his ACRs from 2012-13 onwards are as under:-

Date of Promotion as AETC: 05.03.2012	
Year	Final Grading in ACR
2012-13	Very Good
2013-14	Very Good
2014-15	Very Good
2015-16	NRC (No Report Certificate)
2016-17	Outstanding
2017-18	Outstanding
2018-19	Very Good
Date of Registration of FIR, Annexure P-1: 15.01.2020	
2019-20	NRC (No Report Certificate)
2020-21	Outstanding
2021-22	Outstanding
2022-23	Outstanding
2023-24	Outstanding

3. The next promotion from the post of AETC is to the post of Deputy Excise and Taxation Commissioner (in short, “DETC”). The case of the petitioner was considered for promotion to the post of DETC in the DPC held on 19.08.2021 but, however, he was not promoted and his case was kept in a sealed cover and the persons junior to the petitioner were promoted vide order dated 22.09.2021 (Annexure P-4). Thereafter, on 22.10.2024, the case of the petitioner was again considered by the DPC for promotion to the post of



(DETC), and the DPC again adopted the 'sealed cover' procedure to deny the due promotion to the petitioner and the persons junior to the petitioner were promoted vide order dated 03.01.2025 (Annexure P-5). The said action of the respondents resorting to the procedure of a sealed cover to deny promotion to the petitioner to the post of DETC has been impugned in the present petition.

4. Learned counsel for the petitioner further submits that challan in the criminal case was presented by the prosecution on 31.01.2024 and charges are yet to be framed. He submits that, as on the date on which the petitioner's case was considered for promotion for the first time on 19.08.2021, and the recommendation in respect of the petitioner was directed to kept in a sealed cover neither any charge-sheet had been filed in the criminal case nor had any charges been framed. He further submits that the said action of the respondents is in violation of the law laid down by the Hon'ble Supreme Court in ***Union of India Vs. K.V. Jankiraman : 1991(3) SCT 317***, which has been further reiterated by the Hon'ble Supreme Court in ***Union of India and others Vs. Anil Kumar Sarkar : 2013(2) SCT 753***. In the said judgment, it was held as under:-

*"13. It is not in dispute that an identical issue was considered by this Court in **Union of India and Others v. K.V. Jankiraman and Others, 1991(3) S.C.T. 317 : (1991)4 SCC 109**. The common questions involved in all those matters were:*

(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? and (3) To what benefits an employee who is completely or partially exonerated is entitled to and from which date?. Among the three questions, we are concerned about question No.1. As per the rules applicable, the "sealed cover procedure" is adopted when an employee is due for promotion, increment etc. but disciplinary/criminal proceedings



are pending against him at the relevant time and hence, the findings of his entitlement to the benefit are kept in a sealed cover to be opened after the proceedings in question are over. Inasmuch as we are concerned about the first question, the dictum laid down by this Court relating to the said issue is as follows:-

“16. On the first question, viz., as to when for the purposes of the sealed cover procedure the disciplinary/criminal proceedings can be said to have commenced, the Full Bench of the Tribunal has held that it is only when a charge-memo in a disciplinary proceedings or a charge-sheet 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 chargememo/ 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/charge-sheet. 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.

In para 17, this Court further held:

17. ... The conclusion No. 1 should be read to mean that the promotion etc. cannot be withheld merely because some disciplinary/criminal proceedings are pending against the employee. To deny the said benefit, they must be at the relevant time pending at the stage when charge-memo/charge sheet has already been issued to the employee.”



After finding so, in the light of the fact that no charge sheet was served on the respondent-employee when the DPC met to consider his promotion, yet the sealed cover procedure was adopted. In such circumstances, this Court held that "the Tribunal has rightly directed the authorities to open the sealed cover and if the respondent was found fit for promotion by the DPC, to give him the promotion from the date of his immediate junior Shri M. Raja Rao was promoted pursuant to the order dated April 30, 1986. The Tribunal has also directed the authorities to grant to the respondent all the consequential benefits..We see no reason to interfere with this order. The appeal, therefore, stands dismissed." The principles laid down with reference to similar office memorandum are applicable to the case on hand and the contrary argument raised by the appellant-Union of India is liable to be rejected.

14. In *Coal India Limited & Ors. v. Saroj Kumar Mishra*, AIR 2007 Supreme Court 1706, this Court, in para 22, has held that a departmental proceeding is ordinarily said to be initiated only when a charge-sheet is issued.

15. In *Chairman-cum-Managing Director, Coal India Limited and Others v. Ananta Saha and Others*, (2011) 5 SCC 142, this Court held as under:

*"27. There can be no quarrel with the settled legal proposition that the disciplinary proceedings commence only when a charge-sheet is issued to the delinquent employee. (Vide **Union of India v. K.V. Jankiraman**, (1991) 4 SCC 109 and **UCO Bank v. Rajinder Lal Capoor**, 2007(3) S.C.T. 529: 2007(4) Recent Apex Judgments (R.A.J.) 40: (2007) 6 SCC 694)"*

We also reiterate that the disciplinary proceedings commence only when a charge sheet is issued. Departmental proceeding is normally said to be initiated only when a charge sheet is issued."

5. It has not been disputed in the written statement filed by the respondent that the case of the petitioner was first placed before the DPC for consideration of his promotion on 19.08.2021. As on that date, only the FIR dated 15.01.2020 was pending and no charge sheet/challan had been filed in the Court of law, nor had any departmental charge sheet been issued to the petitioner. It is also admitted that the sanction for prosecution was accorded



subsequently on 10.11.2023, and the challan was presented before the trial Court only on 31.01.2024 and the charges are yet to be framed.

6. In this view of the matter, the action of the respondents in keeping the name of the petitioner in a sealed cover is not permissible in law and is against the dictum of the Hon'ble Supreme Court in *K.V. Jankiraman* and *Anil Kumar Sarkar's cases (supra)*.

7. In view of the above, the present petition is allowed and the respondents are directed to open the sealed cover pertaining to the petitioner and to take consequential action strictly in accordance with the recommendations contained therein and if the name of the petitioner has been recommended for promotion, the same shall be given effect to when the persons junior to him were promoted, with all consequential benefits, within a period of two months from the date of receipt of copy of this order.

8. Disposed of in above terms.

08.12.2025

pry

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No