

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12558 of 2025

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Jagannath Prasad Son of Late Dhupan Prasad Resident of -Maa Jageshwari
Tower, Phase -II Flat no. 302, Kanti Factory Road, Mahatama Gandhi Nagar,
Sampatchak, Patna, Bihar.

... .. Petitioner/s

Versus

1. The Patliputra University through its Registrar, Patna.
2. The Vice Chancellor, Patliputra University, Patna.
3. The Registrar, Patliputra University, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Siddhartha Prasad, Adv. Mr. Om Prakash Kumar, Adv. Mr. Sumit Kumar, Adv. Mr. Swetang Sinha, Adv. Mr. Shashank Shekhar, Adv. Mr. Shantam Kirti, Adv.
For the PPU	:	Dr. Anand Kumar, Adv. Ms. Vijeta Kumari, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 29-01-2026

Heard Mr. Siddhartha Prasad, learned Advocate for
the petitioner and Dr. Anand Kumar, learned Advocate for
Patliputra University.

2. Briefly stated, the petitioner was initially
appointed on the post of Lecturer under the Magadh University
and subsequently promoted to the post of Reader with effect
from 01.07.2012 vide order contained in Memo No. 675/2016



dated 06.03.2016 issued under the signature of the Registrar, Magadh University, Bodh Gaya. Subsequently owing to bifurcation of Magadh University, services of the petitioner brought in Patliputra University, which came into existence in the year 2018 and since then the petitioner has been serving the succeeding Patliputra University.

3. The petitioner is, at present, working on the post of Associate Professor, Patliputra University and his promotion to the post of Professor (History) is due. Irrespective of the fact the petitioner was eligible for promotion to the post of Professor and the exercise in this regard was to be carried out, in the meanwhile on account of certain imputation levelled against the petitioner, a Three Men Committee comprising of Convener and two Members was constituted to look into the matter vide Letter dated 31.01.2025. The petitioner on being aggrieved with the constitution of the Committee filed an objection before the Vice Chancellor of the University. On receipt of the objection of the petitioner, the Vice Chancellor vide its noting dated 04.03.2025 constituted a fresh Committee. But surprisingly the, Three Men Committee, which had already lost its force because of the newly constituted Committee, proceeded and submitted its report dated 11.03.2025.



4. In the meantime, the 25th Syndicate Meeting was held on 29.03.2025 and further of the Senate Meeting on 03.04.2025. The Readers and Associate Professors were promoted to the rank of Professor in the subject of History under the provision of Career Advancement Scheme 2018. The aforesaid notification contained in Memo No. PC/PPU/175/25 dated 08.04.2025 and PC/ PPU /176/25 dated 08.04.2025 have been placed on record as Annexure P/7. Referring to the aforesaid notification, it is further contended that the persons junior to the petitioner, who were holding the post of Associate Professors, like the petitioner, have been promoted to the post of Professor. However, despite the fact that there was neither any departmental proceeding nor any FIR was instituted, the claim of the petitioner was not considered in a complete arbitrary and illegal manner. This Court is further apprised that based upon the afore noted enquiry report, submitted that by the earlier constituted Three Men Committee, the petitioner has also been relieved from the post of Incharge Principal of Ramkrishna Dwarika College. However, even before such relieving order, the petitioner has neither been noticed nor any opportunity of hearing has been afforded. After the order of relieving, having been passed, the petitioner has been served with a show cause



notice directing him to file fresh explanation under Memo No. R/PPU 712/25 dated 15.05.2025.

5. Initially, the writ petition has been filed seeking quashing of the enquiry report as well as the relieving order from the post of Incharge Principal, besides seeking a direction upon the respondent to consider the case of the petitioner for promotion to the post of Professor (History) from due date, when he became eligible for promotion. However, before pressing the writ petition, learned Advocate for the petitioner submitted that now his relief is only confined to relief No. 1(a.) which reads as follows:

“1(a.)To issue writ in the nature of mandamus directing the respondents to consider the case of petitioner for promotion on the post of Professor (History) from the due date (I.e the date on which petitioner became eligible for promotion) and thereafter to grant promotion to petitioner from such due date as petitioner was duly found fit and suitable for promotion by the Screening Committee and was accordingly called to appear in the interview scheduled on 20.02 2025. The petitioner duly attended in interview convened by the selection committee chaired by the Hon'ble Vice Chancellor but subsequently in the meeting of the Syndicate convened on 29.03.2025 the case of petitioner for promotion on the post of Professor(History) was arbitrarily and unfairly not considered by syndicate for promotion despite the fact that petitioner is one of the most eligible and senior candidates among those who were considered for promotion by the syndicate. This



exercise of not considering the case of petitioner for promotion by syndicate is totally arbitrary actuated with malafide and is in gross violation of the settled principles of service jurisprudence especially when no departmental proceeding is pending against the petitioner.”

6. To support the relief as noted hereinabove, after advertizing all the contention, learned Advocate for the petitioner placed heavy reliance on a decision rendered in the case of ***Union Of India vs. K.V. Jankiraman [(1991) 4 SCC 109]***. It is submitted that the Hon’ble Supreme Court in no uncertain terms held that the promotion cannot be withheld merely because of 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. The Court further emphasized that a departmental proceeding is said to be initiated with effect from the date of issuance of memo of charge or in a criminal case when charge sheet has been submitted. Admittedly, in the case at hand, when the claim of the persons junior to the petitioner was considered by the Syndicate and the Senate, there was neither any departmental proceeding nor criminal case pending against the petitioner.

7. Dr. Anand Kumar, learned Advocate for the University while refuting the contention of the petitioner



submitted that so far the enquiry report is concerned, the enquiry has been conducted in pursuant to the direction of the Chancellor of the University. *Prima facie*, various irregularities have been found against the petitioner which led to issuance of show cause. Till enquiry is under process the petitioner has been relieved from the post of Incharge Principal of the college so that the enquiry may not be anyhow hampered. It is further contended that the petitioner appeared for promotion before the Section Committee on 22.02.2025 for grant of promotion to the post of Professor and the recommendation of the Selection Committee has been put in a sealed envelop before the then Vice Chancellor of the University and all sealed envelopes were kept before the 25th Syndicate Meeting on 29.03.2025 for their recommendation. The Syndicate gave their recommendation except Dr. Abhyanand Singh and the petitioner against whom there is serious allegation of financial irregularities.

8. It has further been informed that pursuant the direction of the Hon'ble Governor, the Enquiry Committee has submitted a report based upon which FIR has also been lodged against the petitioner for embezzlement of government money.

9. This Court has considered the submissions advanced by the learned Advocates for the respective parties.



Before proceeding further it would be apt and proper to encapsulate paragraph No. 8, 16 and 17 of the decision rendered by the Apex Court in the case of ***K.V. Jankiraman*** (supra), where in the opinion of this Court will have material bearing and guide the final decision:

“8. The common questions involved in all these matters relate to what in service jurisprudence has come to be known as “sealed cover procedure”. Concisely stated, the questions are: (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? 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. Hence, the relevance and importance of the questions.

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 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/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. 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: (ATC p. 196, para 39)

“(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 to only after a charge memo is served on the concerned official or the charge-sheet filed before the criminal court and not before;”

17. There is no doubt that there is a seeming contradiction between the two conclusions. But read harmoniously, and that is what the Full Bench has intended, the two conclusions can be reconciled with each other. 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. Thus read, there is no inconsistency in the two conclusions.”

Emphasis supplied

10. After going through the afore noted decision there is no room for doubt that the promotion of a person can not be withheld merely in the eventualities where disciplinary/criminal proceeding is/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

11. Now coming to the case at hand, admittedly the



date on which the claim for promotion to the post of Professor was considered by the Syndicate of the University, there was neither any memo of charge nor any charge sheet was submitted. In fact, even the FIR was not lodged against the petitioner. This Court also finds substance to the submissions made by the learned Advocate for the petitioner that after objection having been filed by the petitioner against the constitution of the first Committee, the Vice Chancellor has constituted a fresh Committee on 04.03.2025 as is evident from notings made on the objection of the petitioner at page-35 of the writ petition. This Court also finds that subsequent thereto, a fresh Committee has also been constituted consisting of four Members vide notification contained in Memo No. R/PPU/982/25 dated 30.06.2025 requesting it to submit a report within 45 days. The said Committee has not submitted any report as yet.

12. In view of the aforesaid facts and the settled position in law, this Court finds merit in the writ petition to the extent whereby the petitioner sought a direction upon the respondent to consider his case for promotion to the post of Professor from the due date on which he became eligible and/or his juniors have been promoted. Accordingly, this Court directs



the Vice Chancellor of the Patliputra University to consider the claim of the petitioner for promotion to the post of Professor with effect from the due date by constituting a fresh Selection Committee. This exercise must be completed preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

13. The writ petition stands allowed to the extent indicated hereinabove.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	04 .02.2026
Transmission Date	

