HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-6604-1998 (O&M)

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Vinod Jetley ... Petitioner

VS.

State Bank of India & Ors. ... Respondents

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1.	Judgment reserved on	21.04.2026
2.	Judgment pronounced on	22.05.2026
3.	Judgment uploaded on	25.05.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

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CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

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Present: Mr. Amit Sharma, Advocate for petitioner (legal aid counsel)

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Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, *inter alia*, for issuing a writ of certiorari for quashing the impugned order dated 09.01.1997, 17.02.1997 and 06.05.1997 (Annexures P3, P7 & P8, respectively) as well as the memos dated 24.10.1997 and 16.12.1997 (Annexures P9 & P10, respectively) and to direct the respondents to open the sealed cover proceedings in respect of promotion of the petitioner to SMGS-IV w.e.f. 01.11.1995 and promote him in the aforesaid grade.

(2). Learned counsel for the petitioner submits that while working in SMGS-III with the respondent-Bank, he became eligible for promotion to SMGS Scale –IV w.e.f. 01.11.1995 and as such, his name was figured in the list of prospects who were in the zone of selection declared on 19.10.1996 for their promotion as SMGS w.e.f. 01.11.1995, however, due to issuance of charge-sheet dated 27.11.1996 against the petitioner in relation to finalization of the figures of profit/loss at Mohali Branch as a result of which the amount of interest to the tune of Rs.1,26,66,384/- was wrongly booked as income of the Branch for the year ending 31.03.1994 as the said amount debited from the accounts classified as NPAs was reversed and credited to 'interest not collected account'. The petitioner duly replied without any delay and in the meantime, the petitioner was interviewed in November, 1996 and was one of the 57 candidates whose names were stated to have been recommended for the said promotion.

(3). Thereafter, the petitioner received a memo dated 17.02.1997 from respondent No.3 through the Asstt. General Manager at Jammu informing him that sealed cover procedure was followed in his case for promotion to SMGS-IV w.e.f. 01.11.1995 and that since the penalty of 'censure' has been inflicted, therefore, the sealed cover procedure created for his suitability or otherwise for promotion to SMGS-IV has been rendered infructuous. In the meanwhile, the Appellate Authority i.e. respondent No. 2 also passed an order dated 06.05.1997 whereby the appeal filed by the petitioner against the minor punishment of 'censure' has been rejected. Resultantly, vide memo dated 24.10.1997 the petitioner was informed the Sealed Cover are not to be given effect to on account of imposition of penalty of 'censure'. He submitted another representation dated 04.11.1997 for consideration of his appeal against non-promotion, however, vide memo dated 16.12.97, the petitioner was informed that vide order dated 06.05.1997 (Annexure P8), his appeal has been considered and rejected by the Managing Director and Group Executive (National Banking).

(4). Hence this writ petition.

Proceedings before this Court

(5). In this case, notice of motion was issued on 12.05.1998 and pursuant thereto, a Division Bench of this court admitted this writ petition on 25.02.1999 for being heard within six months. Thereafter, when this matter came up for resumed hearing, a Coordinate Bench of this Court passed the following order on 06.12.2013:-

> *"During arguments, counsel for the respondents has brought to my notice the fact that after having passed over in 1996, the petitioner could earn his promotion only after 8 years in 2004 and, therefore, in his estimation even if the sealed cover is opened, chances are that he should not have been found suitable.*
>
> *Counsel for the petitioner states that without prejudice to the claim either of the petitioner or of the respondents regarding the issue whether the case could have been put in the sealed cover or the sealed cover should have been opened, the sealed cover should be brought in this Court to see whether any useful purpose would be served by arguing the matter on merits. He has very fairly stated that in case after opening the sealed cover it is found that the petitioner was not found fit for promotion he would have no case.*
>
> *Counsel for the respondents has also accepted the fairness of this proposition and prays for 10 days' time to produce the sealed cover in this regard.*
>
> *Adjourned to 18.12.2013."*

(6). On 19.12.2013, counsel for the respondent prayed for some time as he came up with the instructions to state that since the matter is very old, the respondent-Bank is not able to trace out the sealed cover and as such, this Court adjourned the proceedings for 16.01.2014. Thereafter, vide judgment dated 09.10.2017, a Coordinate Bench of this Court allowed the writ petition, the relevant part thereof, is reproduced as under:-

> *"Petitioner's name was overlooked for promotion to the post of SMGS-IV on 1.11.1995 on the score that certain allegations were made against the petitioner. Those allegations were culminated into initiation of*

> *inquiry on 23.10.1996 by framing charges. The inquiry was concluded in imposing the penalty of censure on 09.01.1997. In this background, question for consideration is whether the petitioner is entitled to promotion to the post of SMGS-IV w.e.f. 1.11.1995 or not. Undisputedly, as on 1.11.1995, petitioner was not facing disciplinary proceedings. In other words, charge-sheet was not filed as on 1.11.1995. Therefore, as on 1.11.1995, petitioner was fully eligible. Merely certain allegations were made against the petitioner which were subjected to disciplinary proceedings initiated on 23.10.1996 i.e. much after the date of consideration of petitioner's name for promotion to the post of SMGS-IV on 1.11.1995. Therefore, rejection of petitioner's claim for promotion to the post of SMGS-IV on 1.11.1995 may not be correct for the reasons that as on 1.11.1995, no disciplinary or criminal proceedings were pending. Chargesheet was filed only on 23.5.1996. As on the date of promotion, eligibility is required to be considered. Therefore, in not considering the petitioner's name for promotion to the post of SMGS-IV is arbitrary and illegal so also contrary to the decision of Supreme Court in the case of* ***Union of India and others Vs. K.V. Jankiraman and others 1991 SCC (4) 109****. Accordingly, impugned orders dated 9.1.1997 (Annexure P-3), 17.2.1997, (Annexure P-7) and the order dated 6.5.1997 (Annexure P-8) as well as memos dated 24.10.1997 and 16.12.1997 (Annexures P-9 and P-10) are set aside. The concerned respondent is hereby directed to re-consider the petitioner's name for promotion to the post of SMGS-IV w.e.f. 1.11.1995 read with result which was declared vide circular dated 27.1.1997 and to promote him from the date of juniors' promotion and so also extend monetary benefits. Monetary benefits shall be calculated and disbursed. The above exercise shall be completed within 3 months from the date of receipt of certified copy of this order."*

(7). The aforesaid judgment of this Court was laid to challenge in LPA-2274-2017 by the respondent-Bank on the ground that merits of none of the orders quashed by this Court have been evaluated and as such, Division Bench allowed the said LPA vide order 24.09.2025, observing as under:

> *"5. Be that as it may, in the facts of the case, we find that the orders assailed in the writ petition have neither been examined by the learned Single Judge nor any finding with regard to any illegality or otherwise, has been returned. Once that be so, the orders of the employer could not have been quashed by the learned Single in the manner as has been done.*

> *6. Consequently, we have no option but to interfere in the present appeal and accordingly the judgment of the learned Single Judge dated 09.10.2017, is set aside. The appeal is accordingly allowed and writ petition is remitted to the learned Single Judge for afresh consideration of the cause. All questions including the pendency of disciplinary proceedings on the relevant date are left open for consideration before the learned Single Judge."*

(8). Thereafter, the matter was listed before a Coordinate Bench on 17.11.2025 and thereafter, it was eventually found that the petitioner and his wife both have unfortunately passed away and are now being represented through their LRs, whose application for impleadment has been allowed vide separate order of even date and are now represented through Mr. Amit Sharma, legal aid counsel.

Contentions on behalf of the petitioner

(9). Learned counsel for the petitioner vehemently contended that not every type of punishment imposed upon an employee by the competent authority can be the foundation to withhold/deny due promotion, for, it is imperative upon the authorities to consider the nature of charges and punishment and as such, the petitioner cannot be denied promotion merely on the basis of a minor punishment of 'censure'.

(10). It is submitted that undisputedly the petitioner, like other officers of the Bank, became entitled to promotion to SMGS-IV with effect from 1.11.1995 and that being so, the eligibility and suitability for promotion ought to have been adjudged as on the date when promotion became due to the petitioner. He submits that neither any charge-sheet was issued to the petitioner on 1.11.1995, nor any disciplinary proceedings were initiated against him on that date, so much so, that the charge-sheet was issued only on 23.10.1996

(Annexure P1), and the minor punishment of 'censure' was imposed vide order dated 09.01.1997 (Annexure P3).

(11). It is urged that the aforesaid minor punishment of ‘censure’ may have consequences in an employee’s service career, but certainly it cannot form the foundation to deny him promotion to SMGS-IV as on 01.11.1995 and therefore, the penal order imposing ‘censure’ dated 09.01.1997 cannot have retrospective adverse effect and as such, the procedure of 'sealed cover' can be adopted only where promotion becomes due after initiation of disciplinary proceedings whereas in the present case, the promotion process preceded the disciplinary proceedings against the petitioner.

(12). Learned counsel for the petitioner then argued that the respondent-Bank cannot be permitted to take advantage of their own wrongs or deliberate inaction as immediately upon receipt of the charge-sheet on 27.11.1996, the petitioner replied to the same on 10.12.1996 (Annexure P2), i.e., within 15 days whereas the interviews for promotion to SMGS-IV were conducted from 21.11.1996 to 23.11.1996, and the result was declared prior to the imposition of any punishment.

(13). Another argument raised by the petitioner is that the respondents have wholly misread and misconstrued Circular dated 29.01.1992 (Annexure P-11) while refusing to extend the benefit of promotion to SMGS-IV. He submits that a fair and harmonious reading of para (b)(iii) of the Circular makes it clear that minor penalties such as ‘censure’ or recovery of pecuniary loss were never intended to operate as an absolute or automatic bar to promotion, however, the respondents, in the case of the petitioner, have selectively relied upon only one part of the provision and have ignored its true purpose and the later part which indicates that such minor punishment should not, by itself, defeat promotion.

Respondents' counter

(14). Learned counsel for the petitioner, on the basis of the averments in the written statement, primarily prayed for dismissal of the writ petition on the ground of lack of territorial jurisdiction as the petitioner was posted with the respondent-Bank at Jammu. It is pointed out that the charges levelled against the petitioner were duly established in disciplinary proceedings and that, upon a bare perusal of the charge memorandum, it is evident that the petitioner had failed to exercise the requisite care and diligence while finalising the figures of profit and loss of the Mohali branch for the year 1993-94. In particular, the petitioner did not ensure reversal of the amount of interest debited during the period 1.4.1993 to 31.3.1994 in respect of borrowers' accounts classified as NPAs but not realised up to 31.3.1994, with the result that interest to the tune of Rs. 1,26,66,384/- was wrongly booked as income of the Branch for the year ending 31.3.1994, thereby constituting a violation of Rule 50(4) of the S.B.I. Officers Service Rules (in short, the Rules).

(15). It is further submitted that, after affording the petitioner due opportunity to submit his explanation, the disciplinary authority, upon consideration of the entire material on record, found that the act and conduct of the petitioner were not satisfactory and that the omission on his part was serious in nature, however, taking a lenient view, the disciplinary authority imposed only the minor punishment of "censure" under Rule 67(a) of the Rules, while specifically observing that more serious action would be warranted if lapses of such nature were repeated in future.

(16). Heard learned counsel for the parties and the judgment was kept reserved on 21.04.2026.

(17). That moot question for determination by this Court is whether the petitioner can be denied promotion to SMGS-IV with effect from 01.11.1995, the date when no disciplinary proceedings were pending against him, apparently, on the ground of a minor penalty of 'censure' imposed subsequently on 09.01.1997 in pursuance to a charge-sheet issued on 23.10.1996 after the promotion process had already commenced?

Eligibility for Promotion: The Relevant Date Principle

(18). The petitioner became eligible for promotion to SMGS-IV with effect from 01.11.1995. On that date, he was working in SMGS-III and no disciplinary proceedings of any nature were pending, contemplated, or initiated against him. The charge-sheet came to be issued only on 23.10.1996,nearly eleven months later, and that too after the zone of selection had already been declared on 19.10.1996. Interviews were conducted in November 1996 and thereafter, the minor penalty of 'censure' was imposed upon the petitioner only on 09.01.1997.

(19). It is well settled that eligibility and suitability for promotion must be adjudged as on the date when promotion becomes due, and not on any subsequent date. Admittedly, no charge-sheet had been issued to the petitioner on 01.11.1995, nor were any disciplinary proceedings pending or contemplated against him on that date and as such his eligibility stood established and could not be defeated by subsequent events.

(20). In ***Union of India v. K.V. Jankiraman* (1991) 4 SCC 109**, the Supreme Court categorically held that if, on the date of consideration for promotion, no departmental or criminal proceedings are pending against an employee, he cannot be denied promotion on account of proceedings initiated subsequently. The Court observed that eligibility has to be determined with reference to the crucial date, and post facto initiation of proceedings cannot operate to deny what had already been earned. In the present case, as on 01.11.1995, the petitioner was fully eligible, and the subsequent issuance of a charge-sheet and imposition of minor penalty cannot be given retrospective effect so as to deny him promotion from that date.

<u>Promotion Process Preceded Disciplinary Proceedings and Misapplication of Circular dated 29.01.1992</u>

(21). The factual chronology is of utmost significance. The zone of selection for promotion to SMGS-IV was declared on 19.10.1996, when no charge-sheet had been issued to the petitioner. The charge-sheet was issued only on 23.10.1996, i.e., after the zone of selection had been finalized and circulated. Interviews were conducted from 21.11.1996 to 23.11.1996, and the petitioner was one of the 57 candidates whose names were recommended for promotion. The result was declared vide circular dated 27.01.1997, prior to the imposition of the minor penalty of 'censure' on 09.01.1997.

(22). This timeline unambiguously establishes that the entire promotion process from declaration of the zone of selection to interviews and recommendation had commenced and been substantially completed before any disciplinary action culminated in punishment. In such circumstances, the adoption of sealed cover procedure itself is legally impermissible and constitutes a patent illegality.

(23). Moreover, the 'sealed cover procedure', as contemplated under the Bank's circular dated 29.01.1992, is meant to apply only where disciplinary proceedings are already pending when promotion becomes due, and the employee's case is to be kept in abeyance pending the outcome of such proceedings. It is not a device to deny promotion retrospectively on account of proceedings initiated after the promotion process has commenced. To permit such a course would render the sealed cover procedure a tool of arbitrariness and would defeat the very object of fairness in service jurisprudence.

(24). The respondents have sought to justify the denial of promotion on the basis of para (b)(iii) of the circular dated 29.01.1992. It would be beneficial to reproduce the para (b) (iii) of the said circular:-

> *"(iii) Where the department al proceedings have ended with the imposition of a minor penalty, viz censure, recovery of pecuniary loss to the Bank, withholding of increments of pay and witholing of promotion, the recommendations of the Selection Committee in favour of the employees, kept in the sealed cover, will not be given effect to. But the case of the employees concerned may be considered at the time of next promotion immediately after the If the conclusion of the departmental proceedings. employee is selected for promotion, he may be promoted in the usual manner alongwith others if the penalty is that of 'censure or 'recovery of pecuniary loss. But the cases of employee who have been awarded the minor penalty of 'withholding of increments or withholding of promotion can be considered only after the expiry of the period of the penalty."*

(25). A plain reading of para (b)(iii) reveals that where departmental proceedings have ended with the imposition of a minor penalty such as 'censure' or 'recovery of pecuniary loss', the recommendations kept in the sealed cover will not be given effect to, but the case of the employee may be considered at the time of next promotion immediately after conclusion of proceedings. It further states that if selected, the employee may be promoted in the usual manner alongwith others if the penalty is that of 'censure' or 'recovery of pecuniary loss'.

(26). However, the respondents have read this provision in isolation and have ignored the fact that the sealed cover procedure itself is applicable only where the charge-sheet has been issued or disciplinary proceedings are pending before the promotion becomes due. Apart from this, the circular itself recognizes that minor penalties such as 'censure' or 'recovery of pecuniary loss' are not to be treated as absolute bars to promotion.

(27). In the present case, the petitioner's entitlement to promotion accrued on 01.11.1995, whereas the charge-sheet was issued on 23.10.1996. The sealed cover procedure could not have been invoked at all, as the promotion process had already commenced before disciplinary proceedings were initiated. That apart, the latter part of para (b)(iii) makes it clear that such employees may be promoted "*in the usual manner alongwith others*" <u>if the penalty is censure</u>. The interpretation of para (b)(iii) of the Circular dated 29.01.1992 sought to be coloured by the respondent-Bank, treats ‘censure’ as a complete and permanent bar to promotion which is contrary to the plain language of the circular and renders the protective provision nugatory.

(28). The respondent-Bank cannot be permitted to benefit from their own delay or deliberate inaction. The petitioner replied to the charge-sheet within 15 days of receipt on 27.11.1996, whereas the interviews had already been conducted from 21.11.1996 to 23.11.1996. The result was declared on

27.01.1997, and the penalty was imposed only on 09.01.1997. The sealed cover was created during the pendency of proceedings, but the entire promotion process had matured before the imposition of penalty. To deny the petitioner promotion on this account would amount to giving retrospective effect to the penalty, which is impermissible in law.

Substantive Defence Ignored by Appellate Authority

(29). A perusal of the order passed by the appellate authority dated 06.05.1997 would show that the said authority only mechanically rejected the petitioner's appeal without applying its mind to the substantive defences raised by the petitioner. The plea raised by the petitioner in his appeal and other representations requires to be taken note of but unfortunately, their findings are missing and remained unanswered by the respondent-Bank. The same read as under:-

a) The petitioner was on deputation to SBIICM, Hyderabad for 23 days during the period when the statutory audit statements were finalized, and it was not physically possible for him to detect the alleged irregularity.
b) The Field Officer was primarily responsible, and the petitioner was at best vicariously responsible.
c) Several other officers, including the Chief Manager, Regional Officers, and Statutory Auditors, who had the opportunity to detect the error, were not held accountable.
d) The definition of 'interest not realised' changed vide circular dated 14.07.1994, and the alleged lapse was not an error as per the instructions available till 31.03.1994.
e) The actual impact on branch profits was only Rs. 5-7 lakhs, constituting merely 5% of total branch profits, and the charge-sheet has exaggerated the figures.

(30). The Appellate Authority has dismissed these contentions in a cryptic and non-reasoned manner, merely stating that the petitioner "has not been able to effectively rebut the imputation of lapses." The relevant concluding portion of the impugned order dated 06.05.1997 passed by Deputy Managing Director – the appellate authority read as under:-

> *"4. I have carefully considered the various records of the case and my observations on the issues raised by the appellant are as under, seriatim:*
>
> > *(i) The appellant's contention that the Disciplinary Authority had calculatedly initiated proceedings against him at the time he was due for his promotion is without basis. His promotion was governed by the settled 'sealed cover procedure'.*
> >
> > *(ii) The appellant cannot evade his responsibility by pointing out that the lapse was committed by the Field Officer. As Manager (SIB), it was his duty to ensure that all instructions were implemented. The instructions issued in March 1993 provided that the Interest Not Collected Account Register should, among others, be scrutinised by Manager (SIB). The fact that other officials were not punished is not relevant to his case.*
> >
> > *(iii) The appellant's submission that it was not physically possible for him to detect the irregularity before the Statutory Audit Statements were completed is not maintainable for the entries should have been put through on 31.03.94. His contention that he was away from the branch at the time of Statutory Audit does not have any merit.*
> >
> > *(iv) The appellant has not been able to establish that the revised instructions reached the branch after 31.03.94. The*

> *July 1994 instructions cited by the appellant were to take effect from 31.03.95, as such these are not considered relevant.*
>
> *5. Having so considered the various issues raised by the appellant, I am of the view that the appellant has not been able to effectively rebut the imputation of lapses. I am, therefore, not inclined to interfere with the appointing Authority's order. The appeal is, therefor rejected."*

(31). The petitioner's appeal has been rejected by the appellate authority by merely recording that "the appellant has not been able to effectively rebut the imputation of lapses" and that it is "not inclined to interfere with the appointing Authority's order." This bare and cryptic rejection, without any reasoning or engagement with the substantive defences raised, renders the appellate order wholly unsustainable and violative of the principles of natural justice.

(32). The appellate authority has not examined the participation certificate, nor has it explained why the petitioner alone was singled out when others were let off and has dismissed the legal defence based on the July 1994 circular by cryptically stating that it was "to take effect from 31.03.95" without examining the circular itself or addressing the petitioner's plea, besides, it has completely ignored the plea regarding exaggeration of impact. Such mechanical affirmation of the disciplinary order, couched in general and non-committal language, is antithetical to the concept of review and does not satisfy the requirement of a speaking order. This Court is therefore not satisfied that the appellate authority has discharged its function fairly, reasonably, or in accordance with law.

(33). Further, the non-production of the sealed cover by the respondents, despite specific directions of this Court on 06.12.2013, raises a strong inference that the petitioner was indeed found suitable for promotion and that the sealed cover contained favorable findings. Therefore, the respondents cannot take advantage of their own failure to maintain records and deny the petitioner his legitimate right.

(34). Accordingly, the impugned orders dated 09.01.1997 (Annexure P-3), 17.02.1997 (Annexure P-7), 06.05.1997 (Annexure P-8), and the memos dated 24.10.1997 and 16.12.1997 (Annexures P-9 and P-10) are hereby quashed and set aside insofar as they deny the petitioner promotion to SMGS-IV with effect from 01.11.1995.

(35). The respondents are directed to promote the petitioner to the post of SMGS-IV with effect from 01.11.1995 or from the date his juniors were promoted, whichever is earlier and grant him all consequential service and monetary benefits, including arrears of salary, allowances, and increments, with interest at the rate of 6% per annum from the date the same became due till actual payment. The needful shall be done within a period of two months from the date of receipt of a certified copy of this order.

(36). The writ petition is accordingly allowed.

(37). Pending application(s), if any, stands disposed of.

22.05.2026
V.Vishal

(Sandeep Moudgil)
Judge

*1. Whether speaking/reasoned? : **Yes/No***
2. Whether reportable? : Yes/No