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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9693/2025

VIJAY SINGH

.....Petitioner

Through: Mr. Ankur Chhibber,
Mr. Nikunj Arora, Mr.
Anshuman Mehrotra, Mr.
Amrit Koul & Ms. Muskaan
Dutta, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Sahaj Garg, SPC with
Mr. Rudra Paliwal (GP) & Mr.
Deepansh Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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13.04.2026

1. Through the present writ petition, the Petitioner is essentially seeking promotion to the rank of Deputy Inspector General with notional seniority, pay fixation and consequential benefits.
2. In this case, the Petitioner has not been promoted to the rank of Deputy Inspector General in BSF and the DPC proceedings *qua* the Petitioner have been kept in a sealed cover on account of pendency of an FIR registered on the complaint of his wife after a period of around 27 years of marriage.
3. The FIR has been registered under Sections 498A/406/34 of the Indian Penal Code, 1860.
4. The offences alleged in the FIR does not pertain to services rendered and have no connection with the discharge of functions by the Petitioner in his official capacity. The same cannot be a reason to deny promotion to employee or keep the same in sealed cover. Inquiry/proceedings initiated by the Department has also been closed.



5. The Respondents rely upon OM dated 14.09.1992, which has been aptly interpreted by a Single Bench of this Court in the case of ***Himanshu Gupta v. Engineers India Limited : 2017 SCC OnLine Del 7644*** in the following manner:

*“5. It is seen that these aforesaid paras of OM dated 14.9.1992 are with reference to the judgment of the Supreme Court in the case of Union of India v. K.V. Jankiraman, (1991) 4 SCC 109. The judgment of the Supreme Court in Jankiraman's case (supra) dealt with the issue of criminal proceedings against an employee pertaining to service rendered with the employer inasmuch as, the expression ‘criminal proceedings’ is used simultaneously with the departmental proceedings against the employee. **The judgment of the Supreme Court in Jankiraman's case (supra) does not deal with an issue or that it laid down a ratio that even if a criminal case is pending against an employee which does not pertain to services rendered by the employee with the employer, even then the employee has to be denied promotion for the time being till the decision of the criminal case, and by putting the results of the DPC for promotion in a sealed cover.***

6. That Jankiraman's case (supra) deals only a criminal case pertaining to departmental enquiry i.e a criminal case with respect to services rendered by an employee with the employer becomes clear from the subsequent judgment of the Supreme Court in the case of Union of India v. Dr. Sudha Salhan (Smt) (1998) 3 SCC 394 wherein the Supreme Court with reference to Jankiraman's case (supra) has clarified that the sealed cover procedure is to be adopted only if departmental proceedings were initiated or were pending or on conclusion of the departmental proceedings final orders had not been passed by the appropriate authorities. Para 6 of the judgment in Dr. Sudha Salhan (Smt) (supra) reads as under:—

“6. The question, however, stands concluded by a Three Judge decision of this Court in Union of India v. K.V. Jankiraman, in which the same view has been taken. We are in respectful agreement with the above decision. We are also of the opinion that if on the date on which the name of a person is considered by the Departmental Promotion Committee for promotion to the higher post, such person is neither under suspension nor has any departmental proceedings been initiated against him, his name, if he is found meritorious and suitable, has to be brought on the select list and the “sealed cover” procedure cannot be adopted. The recommendation of the Departmental Promotion Committee can be placed in a “sealed cover” only if on the date of consideration of the name



for promotion, the departmental proceedings had been initiated or were pending or own its conclusion, final orders had not been passed by the appropriate authority. It is obvious that if the officer, against whom the departmental proceedings were initiated, is ultimately exonerated, the sealed cover containing the recommendation of the Departmental Promotion Committee would be opened and the recommendation would be given effect to.”

7. In view of the above discussion, it is held that respondent/employer cannot rely upon the OM dated 14.9.1992 to deny promotion to the petitioner by not declaring the result by resorting to the sealed cover procedure pursuant to the decision of the DPC, and for which results were declared on 30.6.2014, inasmuch as, the OM dated 14.9.1992 would only deal with a criminal case which arises on account of misdemeanor or misconduct or violation of the service rules by an employee while performing his services with the employer.”

(emphasis supplied)

6. It is evident that the Petitioner has not been treated fairly by the Department. Normal wear and tear in the married life cannot be a ground to withhold promotion of employees, particularly when it does not affect the discharge of their duties.

7. Hence, the present writ petition is allowed.

8. The competent authority is directed to open the sealed cover and pass appropriate orders in accordance with law. If the Petitioner is found to have been recommended by the Departmental Promotion Committee, the Petitioner shall be promoted from the date his Juniors were promoted with all consequential benefits.

ANIL KSHETARPAL, J

AMIT MAHAJAN, J

APRIL 13, 2026/“SS”