



2026:AHC:22464

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 18421 of 2025

Prem Prakash Tripathi

.....Petitioner(s)

Versus

The State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sr. Advocate, Tripathi Bhool Gaya Bhai
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri Tripathi B.G. Bhai, learned counsel for the writ petitioner and Sri Sanjeev Singh, learned Addl. Advocate General assisted by Sri Ratan Deep Mishra, learned Standing Counsel for the State.

2. Since affidavits have been exchanged between the parties and they do not propose to file any further affidavits, the writ petition is being decided at the fresh stage.

2. The case of the writ petitioner is that he was appointed as Block Development Officer, he took charge on 15.12.1997 and his services stood confirmed on 04.12.1999. A Departmental Promotion Committee stood convened on 24.10.2025 and the case of the writ petitioner was recommended for being accorded promotion on the post of Chief Development Officer. On 04.11.2025, a charge sheet came to be issued to the writ petitioner and on 14.11.2025, the sealed cover procedure stood adopted against the writ petitioner.

3. Questioning the same, the writ petitioner preferred the present writ petition.

4. This Court entertained the writ petition on 08.12.2025, while passing the following orders:-

"1. Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri Tripathi B.G. Bhai, learned counsel for petitioner and learned Standing Counsel for State-

respondents.

2. Supplementary affidavit filed today be taken on record.

3. Learned Senior Counsel appearing for petitioner submitted that petitioner is working on the post of District Development Officer and his promotion was due. Accordingly, a DPC was held on 24.10.2025, in which name of petitioner was considered and he has been recommended for promotion on the post of Chief Development Officer, but when the order of promotion dated 14.11.2025 was passed, his name was not found place rather having the names of juniors to petitioner. Being confronted, petitioner was informed that vide order dated 04.11.2025, an Inquiry Officer was appointed and further charge sheet was issued on 17.11.2025, due to this reason, petitioner has not been issued promotional order and his name was kept in a sealed cover envelop.

4. Learned Senior Counsel firmly submitted that on the date of DPC, neither petitioner was suspended nor any inquiry was pending against him and charge sheet was issued only on 17.11.2025, therefore, disciplinary proceeding shall be treated to be initiated with effect from service of charge sheet. Therefore, based upon recommendation of DPC dated 24.10.2025, petitioner is fully entitled for issuance of promotional order. In support of his contention, he has placed reliance upon the judgments of Apex Court in the matter of Union of India vs. K.V. Jankiraman; Civil Appeals Nos. 3018-21 of 1987, 3016 of 1988, 51-55 of 1990, 3093 of 1990, 4379 of 1990 and S.L.Ps. (C) Nos. 1094 of 1990, 2344 of 1990, 11680 of 1991, followed by the Apex Court in the matter of Union of India & Ors. vs. Dr. (Smt.) Sudha Salhan; JT 1998 (1) S.C. 622. He lastly submitted that a writ of mandamus may be issued directing respondent-authorities to open sealed cover envelop and issue promotional order to the petitioner on the post of Chief Development Officer.

4. Learned standing counsel though opposed but could not dispute the factual submissions made by counsel for petitioner.

5. I have considered rival submissions advanced by counsels for parties and perused the records as well as judgments cited above.

6. Relevant paragraph nos. 5 & 6 of the judgment passed in Dr. (Smt.) Sudha (supra) are quoted below:-

"5. The Tribunal has found it as a fact that on the date on which the Departmental Promotion Committee met to assess the case of the petitioner, she was neither under suspension nor was any charge sheet issued to her. The Tribunal, consequently, replying upon its own Full Bench decision as also a decision of this Court in New Ban of India v. N.P. Seghal & Anr. (Jt. 1991 (1) SC 498) allowed the Original Application and issued the directions noted above.

6. *The question, however, stands concluded by a Three Judge decision of this Court in Union of India and Ors. v. K.B. Jankiraman & Ors. JT 1991 (3) SC 527 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 on 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. *Therefore, in light of such undisputed facts as well as settled positions of law, an interim mandamus is issued directing respondent no. 1 to open the sealed cover envelop forthwith and issue promotional order to the petitioner forthwith on the post of Chief Development Officer or show cause by filing counter affidavit.*

8. *Put up this case as fresh on 19.01.2026."*

5. An affidavit of respondent no.1 dated 17.01.2026 came to be filed, to which a rejoinder has been filed by the writ petitioner. Supplementary affidavit is already on record.

6. Learned Senior Counsel for the writ petitioner has sought to argue that the case of the writ petitioner for promotion on the post of Chief Development Officer, could not been kept in sealed cover, particularly when on the date when the D.P.C. stood convened, i.e. 24.10.2025, there was no departmental proceedings pending or contemplated. He submits that the charge sheet came to be issued on 04.11.2025, i.e. post the date when the DPC stood convened, thus in view of the judgment of the Hon'ble Apex Court in **Union of India vs. K.V. Janakiraman, (1994) 4 SCC 109** as followed in **Union of India and another vs. Dr. (Smt.) Sudha Salhan, JT 1998(1) SC 622**, the writ petitioner ought to have been accorded promotion on the post of Chief Development Officer. Submission is that what would be relevant is the date

on which DPC stood convened whether there was any departmental proceedings pending or contemplated, once there was nothing adverse against the writ petitioner and there was no departmental proceedings pending or contemplated, then the writ petitioner is entitled to be accorded benefits in that regard. Learned counsel for the writ petitioner also submitted that a Division Bench of this Court in Writ-A no.64669 of 2015, *Rakesh Kumar Gupta vs. State of U.P. & another* had considered an issue, which is akin to what has been argued and in the said judgment, it has been opined that the benefits of promotion cannot be denied, merely because the charge sheet stands issued post the date of convening of DPC.

7. Sri Sanjeev Singh, learned Addl. Advocate General on the other hand submits that though on the date, when the DPC stood convened, i.e. 24.10.2025, there was no charge sheet or departmental proceedings pending against the writ petitioner, but the charge sheet came to be issued on 04.11.2025 and thereafter on 14.11.2025, sealed cover was adopted. He seeks to rely upon the provisions contained in para-11 of the Government Order dated 28.05.1997 so as to contend that though a direction be given for declare the result of the Departmental Promotion Committee, and simultaneously, liberty be accorded to the respondents to conclude the proceedings in that regard.

8. I have heard the submissions so made across the Bar and perused the records carefully.

9. Facts are not in issue. It is not in dispute that the promotion exercise stood for promotion from the post of Block Development Officer to Chief Development Officer and the DPC stood convened on 24.10.2025. Parties are in agreement that on 24.10.2025, i.e. the date of the DPC, that there is no departmental proceedings or charge sheet pending against the writ petitioner. The charge sheet came to be issued on 04.11.2025. The DPC recommended the case of the writ petitioner for promotion on the post of Chief Development Officer, however, on 14.11.2025, the case of the writ petitioner was kept under the sealed cover. As a matter of fact, since on the date of convening of DPC, there was nothing adverse against the writ petitioner, neither any charge sheet was issued nor there was any departmental proceeding pending or contemplated against the writ petitioner,

thus the sealed cover procedure ought not to have been adopted. The said issue stands crystalized in the judgment of the Hon'ble Apex Court in **K.V. Jankiraman (supra)** and **Dr. (Smt.) Sudha Salhan (supra)**. Furthermore, in **Delhi Jal Board vs. Mahendra Singh, (2000) 7 SCC 210**, the Hon'ble Apex Court went on to observe that where the departmental enquiry pending at the time when DPC had met and adopted the sealed cover procedure, resulted into exoneration, but by that time another departmental enquiry was instituted, pendency of latter departmental enquiry was held not a bar to accord benefits of recommendation of DPC to employee concerned. In paragraph-5, the following was observed:-

"5. The right to be considered by the Departmental Promotion Committee is a fundamental right guaranteed under Article 16 of the Constitution of India, provided a person is eligible and is in the zone of consideration. The sealed cover procedure permits the question of his promotion to be kept in abeyance till the result of any pending disciplinary inquiry. But the findings of the Disciplinary Enquiry exonerating the officer would have to be given effect to as they obviously relate back to the date on which the charges are framed. If the disciplinary inquiry ended in his favour, it is as if the officer had not been subjected to any Disciplinary Enquiry. The sealed cover procedure was envisaged under the rules to give benefit of any assessment made by the Departmental Promotion Committee in favour of such an officer. If he had been found fit for promotion and if he was later exonerated in the disciplinary inquiry which was pending at the time when the DPC met. The mere fact that by the time the disciplinary proceedings in the first inquiry ended in his favour and by the time the sealed cover was opened to give effect to it, another departmental enquiry was started by the department, would not, in our view, come in the way of giving him the benefit of the assessment by the first Departmental Promotion Committee in his favour in the anterior selection. There is, therefore, no question of referring the matter to a larger Bench."

10. In **Rakesh Kumar Gupta (supra)**, the import and impact of the para-11 of the Government Order dated 28.05.1997 came to be considered. The Notification dated 28.05.1997 reads as under:-

"11. If recommendation has been made for promotion of any personnel by the Selection Committee, but before implementation of order of promotion, something as contained in Paragraph-2 comes out in the knowledge, and had the same been before the Selection Committee at the time of selection, then it would have been necessary to

keep the recommendation of the Selection Committee in a sealed cover, the concerned personnel shall not be promoted and on receipt of the final result of such proceedings, the recommendation of the Selection Committee in respect of such personnel will be implemented in such a manner under the provisions of this Notification, as if the recommendation of the Selection Committee was kept in a sealed cover in respect of such personnel."

11. Para-11 of the Government Order dated 28.05.1997 was interpreted by the Division Bench of this Court in **Special Appeal No.478 of 2010 (State of U.P. Vs. Nand Kumar Singh)**, which came to be followed in **Rakesh Kumar Gupta (supra)**, decided on 08.01.2016, which reads as under:-

"2. The appellants-State is aggrieved by the judgment and order of the learned Single Judge, whereby he has directed the promotion to the respondent herein to the post of Deputy Superintendent of Police pursuant to a regular selection done by the U.P. Public Service Commission. The Departmental Promotion Committee met on 22.08.2009 and the respondent was selected. A charge-sheet was filed on 02.09.2009.

3. First Information Report was lodged against certain persons under Section 420, 465, 468, 471, 120-B, 292 IPC and by the judgment and order dated 25.5.1992, an accused Kavita Sahu was convicted. It was submitted that on account of political pressure, for the same charges, another First Information Report was lodged on 12.9.1993 with the same allegations, in which the police submitted charge-sheet on 2.9.2009. The petitioner assailed the State action being politically motivated.

4. The appellants sought to follow the sealed cover procedure contending that in terms of Paragraph 11 of the Government Notification dated 28.05.1997, in such a case, sealed cover procedure has to be followed. The learned Single Judge, after considering the matter as also Paragraph 11, held that the sealed cover procedure in such a case will not be followed considering the fact that on the date D.P.C. was held, the impugned charge-sheet was not filed and accordingly, directed that the respondent herein be promoted.

True translation of Paragraph 11 of the Notification dated 28.05.1997 reads as under:-

"11. If recommendation has been made for promotion of any personnel by the Selection Committee, but before implementation of order of promotion, something as contained in Paragraph-2 comes out in the knowledge, and had the same been before the Selection Committee at the time of selection, then it would have been necessary to keep the recommendation of the Selection Committee in a sealed cover, the concerned personnel shall not be promoted and on receipt of the final result of such proceedings,

the recommendation of the Selection Committee in respect of such personnel will be implemented in such a manner under the provisions of this Notification, as if the recommendation of the Selection Committee was kept in a sealed cover in respect of such personnel."

5. Paragraph-2 of the Notification sets out that the sealed cover procedure will be followed in the following three cases:-

(i) When the employee is under suspension.

(ii) When the departmental proceedings are pending against the employee, to which a charge-sheet has been issued.

(iii) When the charge-sheet has been filed against the employee and the same is pending.

6. On behalf of the appellants-State, what is sought to be contended, is that even after the selection and before the appointment letter is issued, if it comes to the notice of the Appointing Authority that there is a charge-sheet pending against the concerned employee, then also in that event, the sealed cover procedure must be followed. The question is as to whether this is the correct interpretation of Paragraph 11 of the Notification.

7. In our opinion, once three cases are manifest under which the sealed cover procedure has to be followed, Paragraph 11 will have to be considered in that context, otherwise this would result in adding another case. The only way to harmonize the rules, considering paragraphs 2 and 11, is to hold that if on the date of D.P.C. there was a charge-sheet and this was not within the knowledge of the Selection Committee even at the stage of issuing the letter of appointment, the sealed cover procedure can be followed. In our opinion, this would be a proper and harmonious construction of the two rules.

8. We find no merit in this appeal. Accordingly, this appeal is dismissed. No order as to costs."

12. Applying the principles of law as laid down in the above noted decision, in the present case, an irresistible conclusion stands drawn that once there is no departmental proceedings either contemplated or pending on the date, when the DPC stood convened, then the sealed cover procedure cannot be adopted. Accordingly, the sealed cover procedure so adopted by the respondents cannot be said to be legal in the eyes of law.

13. Accordingly, a mandamus is issued directing the respondents to open sealed cover and to consider the case of the petitioner for promotion on the

post of Chief Development Officer or any post equivalent thereto pursuant to recommendation of Departmental Promotion Committee convened on 24.10.2025 within six weeks.

14. Needless to point out, it is always open for the respondents to conclude the disciplinary proceeding, which is stated to be pending against the writ petitioner.

15. With the aforesaid observations, the writ petition stands disposed of.

February 2, 2026

N.S.Rathour

(Vikas Budhwar,J.)