



2026:AHC:28101

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 8042 of 2024

Pramod Kumar Gautam

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ajay Kumar Srivastava
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Ajay Kumar Srivastava, learned counsel for the writ petitioner and Sri S.K. Pal, learned Additional Chief Standing Counsel for the State.
2. Since counter and rejoinder affidavits have been exchanged between the parties and the writ petition is being decided at the admission stage.
3. The case of the writ petitioner is that he was initially appointed on the post of Jail Warden on 09.12.1995 in District Jail, Etawah. In the seniority list so published, the name of the writ petitioner found place at serial no. 16. A Departmental Promotion Committee stood convened on 18.11.2022 for consideration of promotion of eligible Jail Warden to the post of Head Jail Warden. As per the recommendation of the Departmental Promotion Committee, the name of the writ petitioner was found to be suitable for promotion and in the list itself, the name of the writ petitioner found place at serial no. 16. That post convening of the Departmental Promotion Committee on 18.11.2022, the writ petitioner came to be suspended on 11.01.2023 by the SSP Jail, Meerut and on 13.10.2023, the disciplinary authority imposed a punishment of stoppage of three increments with cumulative effect against which the writ petitioner preferred a statutory appeal which came to be decided on 02.02.2025 by Deputy Inspector General, Jail Administration and Reform Services whereby the punishment of stoppage of three increments with cumulative effect was modified and reduced to censor entry. Since on the date when the Departmental Promotion Committee stood convened, there was nothing

adverse against the writ petitioner but he was not being accorded promotional benefits on the post of Head Jail Warden so the writ petitioner preferred Writ-A No. 1636 of 2024 which came to be disposed of on 07.02.2024 requiring the respondents herein to consider the claim of the writ petitioner and thereafter now the order impugned came to be passed on 30.04.2024 by the Director General/Inspector General, Jail Administration and Reform Services, Uttar Pradesh.

4. Questioning the same, the present writ petition has been preferred.

5. This Court entertained the writ petition on 22.05.2024 seeking response from the respondents.

6. A counter affidavit has been filed by Senior Superintendent, Central Jail, Naini, Prayagraj dated 19.09.2024 to which a rejoinder affidavit has been filed.

7. Learned counsel for the writ petitioner has sought to argue that the order impugned cannot be sustained even for a single moment particularly on the date when the Departmental Promotion Committee stood convened on 18.11.2022, there was nothing adverse against the writ petitioner neither any charge sheet was issued nor there was any departmental proceedings pending or contemplated against the writ petitioner, thus, merely because on a subsequent point of time, a charge sheet or departmental proceedings stood initiated which resulted into punishment would not take away the rights which stood accrued in favour of the writ petitioner on the date when DPC was convened. Reliance has been placed upon the decision of the Hon'ble Apex Court in **Union of India Vs. K.B. Jankiraman (1991) 4 SCC 109** and **Union of India Vs. Dr. (Smt.) Sudha Salhan (1998) 0 AIR (SC) 1094** as well as judgment of the Coordinate Bench in that regard.

8. Sri S.K. Pal, learned Additional Chief Standing Counsel on the strength of the averments contained in the counter affidavit has submitted that though on the date when DPC stood convened i.e. 18.11.2022, the writ petitioner was found suitable for being accorded promotion on the post of Senior Jail Warden, however, owing to a misconduct committed by the writ petitioner, he was suspended on 11.01.2013 and thereafter was

punishing with stoppage of three increments with cumulative effect on 13.10.2023 and thereafter, the said punishment order on appeal by the writ petitioner on 02.02.2025 came to be modified as censor entry. He, however, could not dispute the fact that on the date when the DPC stood convened, there was nothing adverse against the writ petitioner. According to him, as per the instructions received from his client, the matter needs to be re-visited in that regard.

9. I have heard the submission so made across the bar and perused the record.

10. Facts are not in issue. It is not in dispute that the Departmental Promotion Committee stood convened on 18.11.2022 for promotion of the eligible Jail Wardens to the post of Head Jail Warden. Parties are in agreement that on 18.11.2022 there was no departmental proceedings either pending or contemplated against the writ petitioner less to say about the issuance of any charge sheet. The writ petitioner came to be suspended on 11.01.2023 and the punishment of stoppage of three increments with cumulative effect came to be passed on 13.10.2023. The dates 11.01.2023 and 13.10.2023 when the writ petitioner came to be suspended or punishment order came to be passed are not anterior or on the date when the DPC stood convened but are subsequent to the same.

11. On a pointed query being raised to the learned Additional CSC whether there was anything adverse against the writ petitioner on the date when DPC stood convened i.e. 18.11.2022, the answer in negative. In **Dr. (Smt.) Sudha Salhan (supra)** the Hon'ble Apex Court while following the judgment in **K.B. Jankiraman (supra)**, in para 4 has observed as under.-

"4. The question, however, stands concluded by a Three Judge decision of this Court in Union of India and Ors. v. K.B. Jankiraman & Ors.2, 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."

12. Since the entire basis and the stand so set up by the respondent hinges upon the events post convening of Departmental Promotion Committee and the law so laid down in **Dr. (Smt.) Sudha Salhan (supra)** and **K.B. Jankiraman (supra)** has not been considered in the light of the fact that there was nothing adverse against the writ petitioner when DPC stood convened, thus, in the opinion of the Court, the order impugned cannot be sustained.

13. Accordingly, the writ petition is being decided in the following terms.-

(a) the order dated 30.04.2024 passed by Director General/Inspector General, Jail Administration, Reform Service, Uttar Pradesh is set aside;

(b) the matter stands remitted back to the authority to pass a fresh order in the light of the judgment in **Dr. (Smt.) Sudha Salhan (supra)** and **K.B. Jankiraman (supra)** within a period of two months from the date of production of certified copy of the order.

14. With the aforesaid observations, the writ petition stands **disposed of**.

15. The documents dated 02.02.2025 is taken on record and marked as Appendix 'A'.

(Vikas Budhwar,J.)

February 9, 2026

Rajesh