

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Special Appeal Writ No. 722/2025
URN: SAW / 1568U / 2025

State Of Rajasthan, Through Principal Secretary, Department Of
Personnel, Government Of Rajasthan, Government Secretariat,
Jaipur, Rajasthan.

----Appellant

Versus

Dr. Anil Kumar Paliwal S/o Shri C.s. Paliwal, R/o Sp 10A, Lov
Kush Nagar First, Tonk Phatak, Jaipur- 302015.

-----Respondent

For Appellant(s)	:	Mr. Vigyan Shah, AAG
For Respondent(s)	:	Mr. Ajay Shukla with Mr. Shivam Sharma, Ms. Jyoti Sharma & Mr. Raghav Sharma

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE MANEESH SHARMA

Order

03/07/2026

1. Heard.
2. The challenged in the present appeal is to the judgment and order passed by the learned Single Judge dated 28.03.2025, whereby the learned Single Judge, while interpreting Clause 12.7 of the Circular dated 04.06.2008, has held that the seal cover shall be opened relating to consideration for promotion of an individual if his suspension order has been revoked, even if a criminal case is pending against him.
3. We notice that Clause 12.7 of the Circular relates to departmental enquiry proceedings. Be that as it may, criminal proceedings have a separate role to play and, therefore, apart

from Clause 12.7, if a criminal case is pending against any individual, he cannot be awarded with promotion during the period when he is under cloud. Such a view taken otherwise would result in causing departmental chaos.

4. A similar view was taken by the Hon'ble Supreme Court in the case of **Union of India and Others Vs. K.V. Jankiraman and Others**, reported in **(1991) 4 SCC 109**. The relevant paragraphs of the said judgment read as under:

"13. Paras 5, 6 and 7 of the Memorandum then read as follows:

"5. Where the acquittal in a court case is not on merits but purely on technical grounds, and the Government either proposes to take the matter to a higher court or to proceed against the officer departmentally, the appointing authority may review whether the ad-hoc promotion should be continued.

6. Where the acquittal by court is on technical grounds, if the Government does not propose to go in appeal to a higher court or to take further departmental action, action should be taken in the same manner as if the officer had been acquitted by the court on merits.

7. If the officer concerned is not acquitted/exonerated in the court proceedings or the departmental proceedings, the ad-hoc promotion already granted should be brought to an end by the issue of the 'further order' contemplated in the order of ad-hoc promotion [Please see para 3(vi) above] and the officer concerned reverted to the post from which he was promoted on ad-hoc basis. After such reversion, the officer may be considered for future promotion in the usual course by the next D.P.C."

14. xxxxxxxxxxxx

15. xxxxxxxxxxxx

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:

"(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 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."*

5. In the present case, however, it is informed by learned counsel for the respondent that the respondent has also been

acquitted in the criminal case and after the acquittal, the State has opened his sealed cover.

6. In view of above facts, while we notice that the relief has been granted to the respondent, thus judgment passed by the learned Single Judge and the view taken therein, is held to be not sustainable in law and part of the said judgment is set aside with aforesaid observations.

7. Accordingly, the appeal is allowed to the aforesaid extent.

8. However, it will not come, in any manner, in the way of respondent who has been granted relief otherwise.

9. Pending applications, if any, stand disposed of.

(MANEESH SHARMA),J

(SANJEEV PRAKASH SHARMA),ACTING CJ

SANJAY KUMAWAT/RAJAT/60