



2025:DHC:7400-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 29.07.2025
Pronounced on: 28.08.2025

+ W.P.(C) 10271/2025 & CM APPL. 42676/2025

UNION OF INDIA AND ORSPetitioners
Through: Mr.Ashish K. Dixit, CGSC with
Mr.Shivam Tiwari, Mr.Umar
Hashmi, Ms.Urmila Sharma,
Advs.
versus

SAMEER DNYANDEV WANKHEDERespondent
Through: Mr.Sudhir Nandrajog and
Mr.Arvind Nayar, Sr.Advocates
with Mr.T.Singhdev, Mr.Nikhil
Palli, Mr.Jatin Prashar,
Ms.Niyati Razdan, Ms.Bhavya
Sharma, Mr.Vaidushya Parth,
Mr.Shubham, Ms.Anum
Hussain, Ms.Manisha,
Ms.Ankita, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioners, challenging the Order dated 17.12.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, the



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‘Tribunal’) in O.A. No. 2835/2024, titled ***Sameer Dnyandev Wankhede vs. Union of India and Ors.***, allowing the said OA filed by the respondent herein with following directions:

“8. In light of the above, we allow this OA with following directions:

(a) Respondent nos. 1 to 3 are directed to open the sealed cover pertaining to applicant's promotion and in the event his name is recommended by UPSC, he shall be granted promotion to the post of Additional Commissioner w.e.f. 01.01.2021.

(b) Respondent nos. 1 to 3 are further directed to place applicant's name at appropriate position in the final seniority list dated 28.03.2024 of Joint Commissioners of Customs and Indirect Taxes.

The aforesaid directions shall be complied within a period of four weeks from the date of receipt of copy of this order.”

2. The respondent had filed the above OA, contending therein that the Departmental Promotion Committee (DPC) held on 18.03.2024, which had been constituted for considering the case of the eligible *ad-hoc* officers for regular promotion to the post of Joint Commissioner, had kept the case of the respondent in a sealed cover contrary to the Judgment of the Supreme Court in ***Union of India & Ors. v. K.V.Jankiraman & Ors.***, (1991) 4 SCC 109. The learned Tribunal, by the Impugned Order, has accepted the said challenge of the respondent, and has passed the above quoted directions.

Submissions of the learned counsel for the petitioners:

3. The learned counsel for the petitioners submits that the learned



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Tribunal has failed to appreciate that in the present case, an FIR has been registered by the CBI against the respondent on 11.05.2023. An ECIR bearing No.36/2023 has also been registered by the Enforcement Directorate (ED) against the respondent under the provisions of the Prevention of Money Laundering Act, 2002 (in short, 'PMLA'). He submits that a Draft Charge-sheet for invocation of major penalty was issued on 27.09.2022 and another one, on 27.12.2022. He submits that there was also a complaint received against the respondent that the respondent had submitted a forged Caste Certificate for obtaining employment. The same had also been referred to the CBI for investigation. He submits that a complaint dated 28.07.2023 was also received from the Departmental Legal Advisor, that the respondent had sought confidential information in relation to the pending investigation, and same is also being investigated further by the department.

4. He submits that in view of the above facts, the exception carved out by the Supreme Court in the Judgment of ***K.V.Jankiraman*** (supra), while dealing with Civil Appeal No.51-55/1990, was squarely applicable. He also placed reliance on the Judgments of the Supreme Court in ***Union of India v. Kewal Kumar***, (1993) 3 SCC 204, and ***State of M.P. & Anr. v. Syed Naseem Zahir & Ors.***, 1993 Supp (2) SCC 225, to submit that as the FIR has been registered by the CBI on serious allegations, the decision of the DPC to resort to the sealed cover procedure was justified.



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Submissions of the learned senior counsels for the respondent:

5. On the other hand, the learned senior counsels appearing for the respondent, on advance notice of this petition, submit that three limited circumstances in which the sealed cover procedure can be followed, as laid down by ***K.V.Jankiraman*** (supra) and adopted by the Government of India *vide* its Office Memorandums dated 14.09.1992 and 25.10.2004, were not made out in the present case, inasmuch as there was neither a charge-sheet, or a disciplinary proceeding pending, nor a criminal case registered against the respondent. They place reliance on the Judgments of this Court in ***A.V. Prem Nath v. Union of India & Ors.***, 2023 SCC OnLine Del 3215; ***Sanjay Yadav v. Union of India & Anr.***, 2025 SCC OnLine Del 2553; and ***Neeraj Kumar pandey v. Union of India & Ors.*** 2025 SCC OnLine Del 604, to submit that the Impugned Order passed by the learned Tribunal is in accordance with the law as declared by these judgments.

6. Further, drawing the attention of this Court to the reply filed by the petitioners before the learned Tribunal, they submit that it was the own case of the petitioners, that pursuant to the Order dated 12.03.2024 of this Court in WP(C) 3404/2024, titled ***Sameer Dnyandev Wankhede v. Union of India & Ors.***, it had apprised the CVC *vide* letter dated 26.07.2024, that the issuance of charge memo to the respondent, in pursuance of the first stage advise given by the CVC, cannot be carried out as of now and shall be kept in abeyance. They submit that even the further course of action that had been



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mentioned by the petitioners in its reply before the learned Tribunal, does not fit into the limited parameter wherein the sealed cover procedure can be followed.

7. As far as the FIR registered by the CBI is concerned, placing reliance on the Order dated 08.07.2025 passed by the High Court of Bombay in a Criminal Writ Petition No.1910/2023, titled ***Sameer Dnyandev Wankhede v. Union of India & Ors.***, they submit that therein, the CBI had sought three months further time to complete the investigation. Therefore, the said FIR is still at the stage of investigation and the stage of filing of the charge-sheet is far away, again not resulting in the limited circumstances in which the sealed cover procedure can be adopted.

Analysis and findings:

8. We have considered the submissions made by the learned counsels for the parties.

9. From the above narration of facts, it would be evident that as on today, there is no Departmental Proceedings pending against the respondent wherein any charge-sheet had been issued against him. In fact, the petitioners in its reply-affidavit filed before the learned Tribunal, has admitted as under:

“It may be submitted herein that attention is invited to Hon’ble High Court of Delhi Order dated 12.03.2024 in W.P (C) No. 3404/2024 filed by the applicant wherein it has been held:

“4. In the light of the aforesaid, the writ petition along with all accompanying



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applications is disposed of as not pressed by clarifying that the evidence recorded in the SET will not be relied upon in the departmental enquiry which may be held against the petitioner as per law.”

Subsequently, the applicant forwarded copy of another Order dated 22.03.2024 of the Hon'ble CAT, New Delhi in O.A. No. 1033/2024, whereby the Honble CAT disposed off this OA strictly in terms of the direction of the Hon'ble High Court's aforesaid Order dated 12.03.2024 by directing that the evidences recorded during the course of the preliminary inquiry, conducted by the SET, will not be relied upon in any further departmental inquiry/ disciplinary proceedings, if they were to be held in accordance with the rules governing disciplinary proceedings.

In view of the aforesaid order of Hon'ble High Court of New Delhi and Hon'ble CAT (PB), New Delhi, it has been apprised to CVC vide letter dated 27.06.2024 that the issuance of Charge Memos to the applicant, in pursuance of the First Stage Advices given by CVC, may not be carried out as of now in the light of the aforesaid Order dated 12.03.2024 of the Hon'ble High Court of Delhi.

The CVC vide OM dated 07.08.2024 has noted the above position as intimated by CBIC. Accordingly, after taking approval of the competent authorities following agencies were requested to take appropriate action afresh:

i. NCB vide letter dated 27.06.2024 was requested to take needful action/ decision about conducting fresh enquiry in relation to NCB case Cr. No. 94/2021 (Cordelia Cruise Case), in the light of the Order dated 12.03.2024 of the Hon'ble High Court of



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Delhi;

ii. DGoV, Zonal Unit, Mumbai vide letter dated 21.06.2024 was requested to conduct vigilance investigation on the alleged violation of CCS (Conduct) Rules, 1964 by the applicant with regard to alleged mis-declaration/concealment of details in respect of his private visits to foreign countries and expenses during his Maldives travel and the same is underway;

iii. CBI vide letter F. No. V.584/05/2022/11820 dated 27.06.2024 was requested to conduct investigation in relation to allegations pertaining to sale/ purchase of expensive watches by the applicant in addition to two complaints forwarded by this office received from Sh.Nawab Mallick and Shri Ratnakar Gedam against the applicant.”

10. The respondent has also neither been placed under suspension nor any charge-sheet in a criminal prosecution has been filed against him.

11. The three conditions for placing the case of the respondent in a sealed cover, as set out in the Office Memorandum dated 14.09.1992 which has been issued in compliance with the judgment of the Supreme Court in ***K.V. Jankiraman*** (supra), are therefore not met.

12. Though the learned counsel for the petitioners has vehemently submitted that there are grave allegations against the respondent for which an FIR and an ECIR have been registered, and CVC on earlier occasion has also advised initiation of disciplinary proceedings, the fact remains that neither a charge-sheet in the criminal cases has been filed, nor disciplinary proceedings by issuance of a charge sheet have



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been initiated so far. This Court is not to examine the reasons for the same. However, we may herein also note that the CBI itself took time to complete the investigation, as recorded in the Order dated 08.07.2025 passed by the Bombay High Court and referred herein above, and the petitioners itself advised the CVC not to proceed further with the Departmental Inquiry.

13. In ***K.V. Jankiraman*** (supra), the Supreme Court negated the plea of the Department that a sealed cover procedure can be allowed to be followed merely because the allegations against the employee are serious in nature and it may take time to collect necessary evidence to prepare and issue charge memo and charge-sheet. The Supreme Court observed that if the allegations are so serious and the Authorities are so keen in investigating them, ordinarily, it should not take time to collect the relevant evidence and finalize the charges; there is also a power vested with the Authority to suspend the employee under the relevant Rules, which itself will permit the Authority to resort to the sealed cover procedure and in absence of any of the above, resorting to the sealed cover procedure will not be permissible. We quote from the judgment as under:

“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 chargesheet 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/chargesheet. 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



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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.”

(Emphasis Supplied)

14. As far as the reliance of the petitioners on the observations and finding of the Supreme Court in ***K.V. Jankiraman*** (supra), as far as the Civil Appeal No.51-55/1990 is concerned, it may only be noted that the employees therein had admitted to their guilt and were suspended, and had in fact even deposited the amount drawn by them by submitting alleged false Leave Travel Concessions claims using forged documents. Based thereon, though the Department had taken a lenient view and the criminal prosecution against the employees was dropped, however, it had been done without prejudice to the Departmental Proceedings which were subsequently initiated, and the



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formal charge-sheet was also issued to the employees. It was in those peculiar facts that the Supreme Court held that such employee will not be entitled to claim the benefit of promotion.

15. As noted hereinabove, in the present case, there is no admission of guilt on part of the respondent, and it is not the case of the petitioners that investigation has been completed by the CBI or the ED, resulting in a charge-sheet being filed against the respondent. As far as the Departmental Proceedings are concerned, the petitioners itself has advised CVC not to proceed further with the same.

16. Equally, reliance placed by the petitioners on the judgment of the Supreme Court in *Syed Naseem Zahir* (supra) cannot also be accepted. In the said judgment, the Supreme Court found that though the DPC was not justified in keeping the recommendation pertaining to the respondent therein in a sealed cover, however, due to the subsequent development that the Departmental Inquiry had been completed and the charges against the respondent therein had been found to be proved, it would not be justified for directing the sealed cover to be opened without a decision on the Departmental Proceedings, which was likely to come in “matter of days”. In the present case, as noted herein above, the Disciplinary Proceedings are yet to start against the respondent leave alone being concluded in “matter of days”.

17. In *Kewal Kumar* (supra), the Supreme Court was considering a case where, based on an FIR registered against the respondent therein by the CBI, a decision to initiate Departmental Proceedings had been



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taken prior to the meeting of the DPC and, in fact, the charge sheet had been issued almost immediately following the DPC. In such peculiar facts, the Supreme Court held that a direction to open the sealed cover was not justified. It needs only a reiteration that no such fact exists in the present case.

Conclusion:

18. For the reasons stated hereinabove, we find no infirmity in the Impugned Order passed by the learned Tribunal.

19. The petition is, accordingly, dismissed. Pending application is also disposed of being infructuous.

20. The directions given by the learned Tribunal in the Impugned Order shall be complied with, within 4 weeks from the date of present Judgment.

NAVIN CHAWLA, J

MADHU JAIN, J

AUGUST 28, 2025/Arya/VS