



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

123+246

CM-317-CWP-2025 in/and
CWP No. 16553 of 2024 (O&M)
Decided on : 27.08.2025

JASPREET SINGH

. .Petitioner

Versus

UNION OF INDIA AND OTHERS

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

PRESENT: Mr. Navdeep Singh, Advocate with
Ms. Roopan Atwal, Advocate for the petitioner.

Mr. Rohit Verma, Senior Panel Counsel for UOI.

HARSIMRAN SINGH SETHI , J. (Oral)

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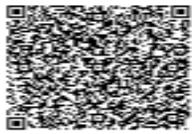
The prayer in the present application is for placing on record the additional documents.

Keeping in view the averments mentioned in the application, the same is allowed. Copy of additional documents is taken on record subject to all just exceptions.

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1. In the present petition, the challenge is to the impugned order dated 14.12.2023 (Annexure P-1) passed by respondent No. 2-Armed Forces Tribunal, Regional Bench, Chandigarh (herein after referred to Tribunal), by which, the benefit of promotion to the post of Junior Commissioned Officer (JCO) has not been granted to the petitioner on account of criminal proceedings pending against him.

2. Learned counsel appearing on behalf of the petitioner argues



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that when the petitioner was in service, his claim for promotion to the post of Junior Commissioned Officer (JCO) was considered and the petitioner was found eligible for promotion to the said post and was rather promoted to said position vide promotion order dated 25.05.2022 (Annexure A-4), but, by placing reliance upon the Clause 3 (a) of the Army Order, (Annexure R-3), respondents did not implement said promotion order dated 25.05.2022 (Annexure A-4) qua the petitioner on the ground that there is a criminal proceedings pending against the petitioner, which is contrary to the rules governing the service so as to grant promotion.

3. Learned counsel for the petitioner further argues that though the claim of the petitioner is not covered under the said Clause 3 (a) of the Army order, but, by treating an FIR registered against the petitioner as a criminal proceedings pending facing persecution, respondents made the case of the petitioner to fall under Clause 3 (a) of the Army Order in order to withhold the promotion and the Tribunal without appreciating the settled principle of law though, noticed in the order itself, has declined the claim of the petitioner.

4. Learned counsel for the respondents submits that the FIR registered against the petitioner itself amounts to facing of a criminal prosecution by a Government official hence, the order dated 14.12.2023 passed by the Tribunal in accordance with Clause 3(a) of the Army Order (Annexure A-3) is valid and the present writ petition may kindly be dismissed.

5. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

6. The claim of the petitioner is being declined for promotion to the



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post of Junior Commissioned Officer (JCO), though the same was granted to the petitioner vide order dated 25.05.2022 (Annexure A-4) by placing reliance upon Clause 3 of the Army Order.

The relevant portion of Clause 3 (a) (i) and 3 (a) (iii) is as under:-

***“Disciplinary Cases** Where formal cognisance of an offence has been taken.*

***Criminal Cases:** Where a person is facing prosecution by Government in a Court of Law on a matter involving moral turpitude or lack of integrity”*

7. The question, which is raised before this Court is that as to whether merely registration of an FIR against petitioner will cover the case of the petitioner under “disciplinary cases” or “criminal cases” as has been reproduced herein before.

8. As per the judgment of the Hon’ble Supreme Court of India in **Union of India Vs. K.V. Jankiraman, (1991) 4 SCC 109**, it has been clearly held that the pendency of criminal proceedings can only be treated as an impediment for purpose of promotion if in case the charge-sheet has been filed i.e. charges have been framed and the pendency with regard to disciplinary proceedings can only be treated as such in case the charge-sheet has been served upon the delinquent concerned. The relevant paragraph of the said judgment is 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/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 finalize 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)



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(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.”

9. In the present case, it is a conceded position, which has been conceded by the respondents themselves vide letter dated 15.01.2024 (Annexure P-5) that no cognizance of the offence alleged to have been done by the petitioner had been taken with regard to the FIR registered against the petitioner as no charges have been framed yet against him so far.

10. That being so, the act of respondent of treating the disciplinary proceedings pending or the criminal proceedings pending against the petitioner as an impediment so as to withhold the promotion of the petitioner is incorrect.

11. Learned counsel for the respondents has not been able to dispute the settled principle of law noticed herein above.

12. Keeping in view the totality of facts and circumstances of the present case, when an actual promotion order dated 25.05.2022 (Annexure P-4) had already been issued in favour of petitioner for promoting him to the post of Junior Commissioned Officer (JCO) which promotion order has been withheld by respondent by wrongly interpreting the provisions of Army Order reproduced herein before and the non-consideration of the settled principle of law in the judgment passed by Hon'ble Supreme Court of India in **K. V. Janki Raman's case (supra)** it would be correct to put that the Tribunal has caused prejudice to the petitioner.

13 The order dated 14.12.2023 (Annexure P-1) passed by the Tribunal is perverse to the settled principle of law and the same cannot be sustained. Accordingly, the order dated 14.12.2023 (Annexure P-1) passed by the Tribunal declining the claim of the petitioner qua promotion is hereby



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set-aside.

14. The respondents are directed that keeping in view the order dated 25.05.2022 (Annexure P-4), the petitioner be treated as Junior Commissioned Officer (JCO) for all intents and purposes including the salary and other benefit admissible during the service.

15. Let the order be complied with within the period of eight weeks from the date of receipt of copy of this order.

16. The present petition is disposed of in above terms.

17. Pending civil miscellaneous application, if any, stands disposed of.

**(HARSIMRAN SINGH SETHI)
JUDGE**

**(VIKAS SURI)
JUDGE**

27.08.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No