



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

WEDNESDAY, THE 12TH DAY OF NOVEMBER 2025/21ST KARTHIKA,

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OP(KAT) NO. 327 OF 2025AGAINST THE ORDER DATED 01.07.2025 IN O.A. (EKM) NO. 909 OF
2025 OF KERALA ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,
ERNAKULAM.PETITIONER/APPLICANT:

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AGED 44 YEARS
S/O. LATE PADMANABHAN P,
WORKING AS JUNIOR SUPERINTENDENT,
LAND REVENUE DEPARTMENT,
TALUK OFFICE,
PATTYANNUR, KANNUR DISTRICT- 670307,
RESIDING AT PADMAM, MATTALAYI,
CHERUVATHUR P.O, KASARAGOD,
CHERUVATHUR, KASARAGOD,
PIN - 671313

BY ADVS.
SMT.A.V.INDIRA
SHRI.ANANDHU SATHEESH
SMT.SREEDEVI S.

RESPONDENTS/RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY SECRETARY,



**REVENUE-LAND REVENUE, SECRETARIAT,
THIRUVANANTHAPURAM, KERALA., PIN - 695001**

**2 THE LAND REVENUE COMMISSIONER
LAND REVENUE DEPARTMENT,
THIRUVANANTHAPURAM, KERALA, PIN - 695001**

**BY ADV.
SMT. MARY BEENA JOSEPH, SR.GP**

**THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING BEEN
FINALLY HEARD ON 27.10.2025, THE COURT ON 12.11.2025
DELIVERED THE FOLLOWING:**



JUDGMENT

Muralee Krishna, J.

The applicant in O.A.(EKM) No.909 of 2025 on the file of the Kerala Administrative Tribunal, Additional Bench, Ernakulam (the 'Tribunal' in short), filed this original petition, invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India, challenging the order dated 01.07.2025, passed by the Tribunal in that original application.

2. Going by the averments in that original application, the petitioner is currently working as a Junior Superintendent at the Taluk Office, Payyannur, Kannur. He was included in Annexure A1 Select List for promotion to the post of Tahsildar, at Sl. No.79, Rank 6160, in compliance with the statutory provisions of the Kerala State and Subordinate Services Rules (KS&SSR), indicating that he met all eligibility criteria and had no disqualification as on the date of selection. Subsequently, a Charge Memo dated 18.03.2025 was issued against the petitioner, alleging certain procedural lapses in the processing of files. On receipt of the said charge memo, the petitioner submitted a detailed reply on



04.04.2025, denying the allegations and justifying the actions taken in the normal course of administrative duties. However, while the explanation remained pending and without any finding of guilt, the 2nd respondent issued the promotion order dated 13.06.2025, excluding the petitioner from the final promotion list. This was done solely on the grounds of the pending disciplinary proceedings, without adopting the sealed cover procedure or issuing any reason. The exclusion is arbitrary, premature, and in violation of the principles laid down by the Apex Court, particularly in **Union of India v. K.V. Jankiraman [AIR 1991 SC 2010]**, which holds that mere pendency of proceedings is not a bar for consideration for promotion. The action also violates the KS&SSR, causing serious prejudice to the petitioner's career. With these pleadings, the petitioner-applicant approached the Tribunal with the original application filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs;

"a) Quash the Annexure A4 proceedings of the 2nd respondent bearing Order No. E LR/1597/2025-LR(E2) dated 13.06.2025, to the extent it excludes the name of the applicant from the promotion list to the post of Tahsildar, despite his inclusion in Annexure A1 Select List published as



per Gazette Notification No. LR/9287/2024-LR(E2) dated 09.01.2025.

b) Declare that the applicant is entitled to be considered for promotion to the post of Tahsildar based on his inclusion in Annexure A1 select list dated 09.01.2025, and that the mere pendency of departmental proceedings initiated after the publication of the select list shall not operate as a disqualification.

c) Direct the respondents to forthwith include the name of the applicant in Annexure A4 promotion list to the post of Tahsildar and consider him for promotion provisionally, subject to the outcome of the pending disciplinary proceedings."

3. On 01.07.2025, when the original application came up for consideration, the Tribunal passed the impugned Ext.P2 order dismissing the original application. Paragraphs 3, 4 and also the last paragraph of that order read thus;

"3. According to the learned counsel for the applicant, the order of promotion has not stated any reason for excluding the applicant. But Note 3 to Rule 28(b)(1)(7) of Part II KS & SSR provides that officers whose names are included in the select list but who are subsequently placed under suspension or against whom criminal proceedings are taken in a Sessions Court or in any other higher Court for grave offences and officers against whom departmental proceedings are taken for the imposition of a major penalty



under the disciplinary rules applicable to them, shall not be promoted on the basis of their inclusion in the select list until they are fully exonerated of the charges against them.

4. Even the applicant, referring to the judgment of the Apex Court in Union of India vs. K. V. Jankiraman (AIR 1991 SC 2010) has stated that promotion can be kept in abeyance pending disciplinary action. It is seen that applicant's non-inclusion in Annexure A4 list of promotion in accordance with the provisions contained in the KS & SSR which provides that promotion shall not be given to officers against whom major penalty proceedings are pending. We do not find anything wrong with the exclusion of the applicant in the promotion list.

Accordingly, the Original Application fails and it is dismissed."

4. Being aggrieved by the aforesaid order of the Tribunal, the petitioner is now before this Court with this original petition.

5. Heard the learned Counsel for the petitioner-applicant and the learned Senior Government Pleader.

6. The learned counsel for the petitioner would submit that the Tribunal failed to properly appreciate the principles laid down in **K. V. Jankiraman [AIR 1991 SC 2010]**, which provides for a sealed cover procedure, which was not followed in the case of the petitioner.



7. On the other hand, the learned Senior Government Pleader submitted that there is no illegality in the impugned order of the Tribunal, and hence interference of this Court by exercising supervisory jurisdiction is unwarranted.

8. Article 227 of the Constitution of India deals with the power of superintendence over all courts by the High Court. Under clause (1) of Article 227 of the Constitution, every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

9. In **Shalini Shyam Shetty v. Rajendra Shankar Patil** **[(2010) 8 SCC 329]** the Apex Court, while analysing the scope and ambit of the power of superintendence under Article 227 of the Constitution, held that the object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under Article 227 is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public



confidence in the functioning of the tribunals and courts subordinate to the High Court.

10. In **Jai Singh v. Municipal Corporation of Delhi [(2010) 9 SCC 385]**, while considering the nature and scope of the powers under Article 227 of the Constitution of India, the Apex Court held that, undoubtedly the High Court, under Article 227 of the Constitution, has the jurisdiction to ensure that all subordinate courts, as well as statutory or quasi-judicial tribunals exercise the powers vested in them, within the bounds of their authority. The High Court has the power and the jurisdiction to ensure that they act in accordance with the well established principles of law. The exercise of jurisdiction must be within the well recognised constraints. It cannot be exercised like a 'bull in a china shop', to correct all errors of the judgment of a court or tribunal, acting within the limits of its jurisdiction. This correctional jurisdiction can be exercised in cases where orders have been passed in grave dereliction of duty or in flagrant abuse of fundamental principles of law or justice.

11. In **K.V.S. Ram v. Bangalore Metropolitan**



Transport Corporation [(2015) 12 SCC 39] the Apex Court held that, in exercise of the power of superintendence under Article 227 of the Constitution of India, the High Court can interfere with the order of the court or tribunal only when there has been a patent perversity in the orders of the tribunal and courts subordinate to it or where there has been gross and manifest failure of justice or the basic principles of natural justice have been flouted.

12. In **Sobhana Nair K.N. v. Shaji S.G. Nair [2016 (1) KHC 1]** a Division Bench of this Court held that, the law is well settled by a catena of decisions of the Apex Court that in proceedings under Article 227 of the Constitution of India, this Court cannot sit in appeal over the findings recorded by the lower court or tribunal and the jurisdiction of this Court is only supervisory in nature and not that of an appellate court. Therefore, no interference under Article 227 of the Constitution is called for, unless this Court finds that the lower court or tribunal has committed manifest error, or the reasoning is palpably perverse or patently unreasonable, or the decision of the lower



court or tribunal is in direct conflict with settled principles of law.

13. In view of the law laid down in the decisions referred to supra, the High Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India cannot sit in appeal over the findings recorded by a lower court or tribunal. The supervisory jurisdiction cannot be exercised to correct all errors of the order or judgment of a lower court or tribunal, acting within the limits of its jurisdiction. The correctional jurisdiction under Article 227 can be exercised only in a case where the order or judgment of a lower court or tribunal has been passed in grave dereliction of duty or in flagrant abuse of fundamental principles of law or justice. Therefore, no interference under Article 227 is called for, unless the High Court finds that the lower court or tribunal has committed manifest error, or the reasoning is palpably perverse or patently unreasonable, or the decision of the lower court or tribunal is in direct conflict with settled principles of law or where there has been gross and manifest failure of justice or the basic principles of natural justice have been flouted.



14. From the pleadings in the original application, we notice that the petitioner was excluded from the final promotion list due to the pendency of a disciplinary proceeding against him. He was served with Annexure A2 charge memo dated 18.03.2025, alleging certain procedural lapses in processing the files. The petitioner has submitted Annexure A3 reply dated 04.04.2025 to that charge memo. Due to the pendency of the said enquiry, the petitioner was excluded from the final list of promotees to the post of Tahsildar.

15. The Tribunal, by relying on the judgment in **K. V. Jankiraman [AIR 1991 SC 2010]**, held that promotion can be kept in abeyance pending disciplinary action. It is also held by the Tribunal that, as per the provisions contained in KS&SSR, which provide that promotions shall not be given to the officers against whom major penalty proceedings are pending. To arrive at the said conclusion, the Tribunal relied on Note 3 to Rule 28(b)(1)(7) of Part II of KS&SSR.

16. In **K. V. Jankiraman [AIR 1991 SC 2010]**, the Apex Court considered the question, (i) what is the date from which it



can be said that disciplinary/criminal proceedings are pending against an employee? (ii) What is the course to be adopted when the employee is held guilty in such proceedings if the guilt merits punishment other than that of dismissal? (iii) To what benefits is an employee who is completely or partially exonerated is entitled to and from which date? The Apex Court further observed that the 'sealed cover procedure' is adopted when an employee is due for promotion, increment, etc., but disciplinary/criminal proceedings are pending against him at the relevant time, and hence, the findings of his entitlement to the benefit are kept in a sealed cover to be opened after the proceedings in question are over.

17. In paragraphs 6 and 7 of the judgment in **K. V. Jankiraman [AIR 1991 SC 2010]**, the Apex Court held thus;

"6. 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 pendency of a disciplinary or criminal proceedings against an official;

(4) The sealed cover procedure can be resorted only after a charge memo is served on the concerned official or the charge sheet is filed before the criminal court and not before . 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.

We, therefore, repel the challenge of the appellant-authorities to the said finding of the Full Bench of the Tribunal.

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8. The Tribunal has also struck down the following portion in the second sub paragraph after clause (iii) of paragraph 3 which reads as follows: "If any penalty is imposed on the officer as a result of the disciplinary proceedings or if he is found guilty in the court proceedings against him, the



findings in the sealed cover/covers shall not be acted upon" and has directed that if the proceedings result in a penalty, the person concerned should be considered for promotion in a Review DPC as on the original date in the light of the results of the sealed cover as also the imposition of penalty, and his claim for promotion cannot be deferred for the subsequent DPCs as provided in the instructions. It may be pointed out that the said subparagraph directs that "the officer's case for promotion may be considered in the usual manner by the next DPC which meets in the normal course after the conclusion of the disciplinary/court proceedings". The Tribunal has given the direction in question on the ground that such deferment of the claim for promotion to the subsequent DPCs amounts to a double penalty. According to the Tribunal, "it not only violates Articles 14 and 16 of the Constitution compared with other employees who are not at the verge of promotion when the disciplinary proceedings are initiated against them but also offends the rule against double jeopardy contained in Art.20(2) of the Constitution". The Tribunal has, therefore, held that when an employee is visited with a penalty as a result of the disciplinary proceedings there should be a Review DPC as on the date when the sealed cover procedure was followed and the review DPC should consider the findings in the sealed cover as also the penalty imposed. It is not clear to us as to why the Tribunal wants the review DPC to consider the penalty imposed while considering the findings in the sealed cover if, according to the Tribunal, not giving effect



to the findings in the sealed cover when a penalty is imposed amounts to double jeopardy. However, as we read the findings of the Tribunal, it appears that the Tribunal in no case wants the promotion of the officer to be deferred once the officer is visited with a penalty in the disciplinary proceedings and the Tribunal desires that the officer should be given promotion as per the findings in the sealed cover. According to us, the Tribunal has erred in holding that when an officer is found guilty in the discharge of his duties, an imposition of penalty is all that is necessary to improve his conduct and to enforce discipline and ensure purity in the administration. In the first instance, the penalty short of dismissal will vary from reduction in rank to censure. We are sure that the Tribunal has not intended that the promotion should be given to the officer from the original date even when the penalty imparted is of reduction in rank. On principle, for the same reasons, the officer cannot be rewarded by promotion as a matter of course even if the penalty is other than that of the reduction in rank. An employee has no right to promotion. He has only a right to be considered for promotion. The promotion to a post and more so, to a selection post, depends upon several circumstances. To qualify for promotion, the least that is expected of an employee is to have an unblemished record. That is the minimum expected to ensure a clean and efficient administration and to protect the public interests. An employee found guilty of a misconduct cannot be placed on par with the other employees and his case has to be



treated differently. There is, therefore, no discrimination when in the matter of promotion, he is treated differently. The least that is expected of any administration is that it does not reward an employee with promotion retrospectively from a date when for his conduct before that date he is penalised in praesenti. When an employee is held guilty and penalised and is, therefore, not promoted at least till the date on which he is penalised, he cannot be said to have been subjected to a further penalty on that account. A denial of promotion in such circumstances is not a penalty but a necessary consequence of his conduct In fact, while considering an employee for promotion his whole record has to be taken into consideration and if a promotion committee takes the penalties imposed upon the employee into consideration and denies him the promotion, such denial is not illegal and unjustified. If, further, the promoting authority can take into consideration the penalty or penalties awarded to an employee in the past while considering his promotion and deny him promotion on that ground, it will be irrational to hold that it cannot take the penalty into consideration when it is imposed at a later date because of the pendency of the proceedings, although it is for conduct prior to the date the authority considers the promotion. For these reasons, we are of the view that the Tribunal is not right in striking down the said portion of the second sub paragraph after clause (iii) of "paragraph 3 of the said Memorandum. We, therefore, set aside the said findings of the Tribunal.



In the circumstances, the conclusions arrived at by the Full Bench of the Tribunal stand modified as above. It is needless to add that the modifications which we have made above will equally apply to the Memorandum of January 12, 1988".

18. The Tribunal relied on Note (iii) to Rule 28(b)(i)(7) of Part II of KS&SSR to hold that the petitioner against whom disciplinary proceedings for imposition of a major penalty are pending is not entitled to be considered for promotion.

19. Note (iii) to Rule 28(b)(i)(7) of Part II of KS&SSR reads thus:

"(iii) Officers whose names are included in the select list but who are subsequently placed under suspension or against whom criminal proceedings are taken in a Sessions Court or in any other higher Court for grave offences and officers against whom departmental proceedings are taken for the imposition of a major penalty under the disciplinary rules applicable to them, shall not be promoted on the basis of their inclusion in the select list until they are fully exonerated of the charges against them. If the officer is fully exonerated of the charges, he shall be promoted on the basis of his position in the select list to the post which has been filled on a temporary basis pending disposal of the charges against him. If the Officer is not fully exonerated, the Departmental Promotion Committee may consider each case on its own merit. Officers whose names are included in



the select list but against whom departmental proceedings for imposing a minor penalty are initiated subsequently, may be promoted on a temporary basis pending disposal of the proceedings against them. If the Officer is fully exonerated of the charges the temporary promotion shall be treated as regular promotion and if the Officer is not fully exonerated of the charges, his case may be considered by the Departmental Promotion Committee on merits”.

(underline supplied)

20. A reading of the above extracted provision would show that an officer against whom departmental proceedings are taken for the imposition of a major penalty under the disciplinary rules applicable to them, shall not be promoted on the basis of his or her inclusion in the select list until the officer is fully exonerated of the charges. In the instant case, though the petitioner was included in Annexure A1 select list for promotion to the post of Tahsildar, before issuance of promotion order dated 13.06.2025, the charge memo dated 18.03.2025 was issued to him by which the departmental proceedings were initiated for the imposition of a major penalty. Under such circumstances, the 2nd respondent Land Revenue Commissioner, cannot be found fault in excluding the petitioner from the promotion list. At the same time, it is to



be noted that the procedure to be adopted in such cases by the 2nd respondent is the sealed cover procedure as stated in **K. V. Jankiraman [AIR 1991 SC 2010]**.

21. In **State of Haryana v. Dinesh Singh [2023 SCC Online SC 1680]** the Apex Court, while considering the promotion right of an employee against whom disciplinary proceedings were initiated, held thus:

"21. What needs to be noted at the very outset is that the Respondent has not challenged the validity of Rule 9 (1)(a)(iii), which requires, as a matter of eligibility for selection, that no disciplinary proceeding be pending, or action be contemplated against him. This is significant because, normally, in the context of promotion-related disputes, this Court has consistently held that mere pendency or contemplated initiation of disciplinary proceedings against a candidate must be considered to have absolutely no impact upon his right to be considered. Resort is often taken to the 'sealed cover' procedure in cases where a candidate/employee seeking promotion to a higher grade is facing disciplinary proceedings. As per this procedure, the candidate is allowed to participate in the merit-based selection process, and the results of such candidate's selection is kept in a sealed cover and opened in the event where the disciplinary proceedings are dropped/ or a finding of not guilty is passed".



22. The Tribunal in the impugned order found that as per the principles laid down in **K. V. Jankiraman [AIR 1991 SC 2010]** the promotion of the petitioner can be kept in abeyance pending disciplinary action. However, without directing the 2nd respondent to adopt the sealed cover procedure, the Tribunal dismissed the original application. While going through the pleadings in the original application, we notice that though the relief claimed by the petitioner in the original application is to include him in the promotion list to the post of Tahsildar after quashing Annexure A4 proceedings to the extent it excludes him from the promotion list, the petitioner has a case that the correct course of action would have been adopted by the respondents is to include his name in the promotion list under the sealed cover by implementing the principles laid down in **K. V. Jankiraman [AIR 1991 SC 2010]**. The Tribunal failed to consider this pleadings in the original application.

23. Having considered the pleadings and materials on record and the submissions made at the Bar, in the light of the judgments referred to supra, we find that the impugned order of



the Tribunal is liable to be set aside and the 2nd respondent has to be directed to adopt the sealed cover procedure, as far as the claim of promotion raised by the petitioner.

In the result, this original petition is disposed of by setting aside the impugned order dated 01.07.2025, passed by the Tribunal in O.A(EKM)No.909 of 2025 and the original application is disposed of, directing the 2nd respondent to undertake the sealed cover procedure by placing the claim of the petitioner for promotion to the post of Tahsildar, before the Departmental Promotion Committee.

Sd/-

ANIL K. Narendran, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

MSA



APPENDIX OF OP(KAT) 327/2025

PETITIONER ANNEXURES

Annexure A1 A TRUE COPY OF THE RELEVANT PAGES OF THE GAZETTE NOTIFICATION BEARING NO. LR/9287/2024-LR(E2) DATED 09/01/2025

Annexure A2 A TRUE COPY OF THE CHARGE MEMO AND STATEMENT OF CHARGES BEARING FILE NO. LR/3087/2024-LR(D6) ISSUED BY THE 2ND RESPONDENT TO THE APPLICANT DATED 18/03/2025

Annexure A3 A TRUE COPY OF THE REPLY SUBMITTED BY THE APPLICANT BEFORE THE 2ND RESPONDENT DATED 04/04/2025

Annexure A4 A TRUE COPY OF THE PROMOTION ORDER NO. E LR/1597/2025-LR(E2) DATED 13/06/2025

Exhibit P1 A TRUE COPY OF THE O.A. (EKM) NO. 909 OF 2025, ALONG WITH THE ANNEXURES FILED BY THE APPLICANT ON THE FILES OF THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

Exhibit P2 A TRUE COPY OF THE ORDER DATED 01.07.2025 PASSED BY THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL IN O.A. (EKM) NO. 909 OF 2025