

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 16 of 2022

Bijaya Kumar Sahu

.....

Petitioner

Mr. P.K. Mishra, Advocate

-Versus-

State of Odisha & another

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

06.01.2022

Order No.
01.

This matter is taken up through hybrid mode.

2. Heard learned counsel for the parties.

3. The petitioner has filed this application seeking direction to the opposite parties to give him promotion to the post of Asst. Executive Engineer from the date from which his immediate juniors got such promotions, and to grant him all consequential service and financial benefits including further promotion within a stipulated time.

4. Moot question involves whether promotion of an employee can be withheld for indefinite period on the premises of pendency of departmental proceeding over a period of decades.

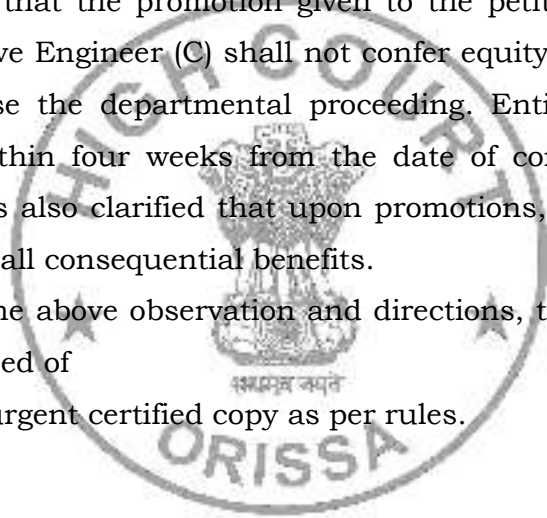
5. This Court considering such situation has already settled the position of law keeping the sealed cover promotion aspect in view of pendency of the Disciplinary Proceeding and/or Vigilance Proceeding for decades becomes bad.

6. Fact involving the case reveals that there is no vigilance proceeding pending against the petitioner except the joint departmental proceeding pending vide order no. 894/WR(C) dated 31.05.2019. Involving the allegation against the petitioner and four others, it appears that the joint departmental proceeding was initiated in the year 2019. Even though enquiry report was submitted on 04.02.2021 with the findings that charges are not established, but the departmental proceeding is yet to be disposed of. Pleading also further made clear that no vigilance proceeding pending against the petitioner. In this

background of case an allegation is made that promotion of the petitioner taking effect in the year 2020 has been kept in sealed cover only on the premises that a departmental proceeding involving the petitioner is pending since 2019. For the settled position of law, this Court in disposal of the writ petition observes, petitioner cannot suffer for the long pendency of the departmental proceeding. It is also not known when the departmental proceeding initiated in the year 2019 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Principal Secretary, Water Resources Department-opposite party no.1 to give promotions to the petitioner to the rank of Asst. Executive Engineer (C) from the date of his juniors and batchmates got such promotion under Annexure-5. However, the promotion of the petitioner as per direction of this Court shall be subject to the ultimate outcome in the departmental proceeding. Further it is also clarified that the promotion given to the petitioner to the rank of Asst. Executive Engineer (C) shall not confer equity in the event, he will ultimately lose the departmental proceeding. Entire exercise shall be completed within four weeks from the date of communication of this direction. It is also clarified that upon promotions, petitioner shall also be entitled to all consequential benefits.

7. With the above observation and directions, the writ petition thus stands disposed of

Issue urgent certified copy as per rules.



(DR. B.R. SARANGI)
JUDGE

Ashok