

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 5015 of 2022

Aruna Kumar Rout

.....

Petitioner

Mr. N.S. Panda, Advocate

-Versus-

Sate of Odisha & Ors.

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

22.02.2022

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 Head Clerk w.e.f. 16.01.2018, i.e., 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 if a promotion of employee can be withheld for indefinite period on the premises of pendency of vigilance 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 criminal Proceeding for decades becomes bad.

6. Fact involving the case reveals that there is a disciplinary proceeding pending against the petitioner besides the criminal proceeding pending in the Court of learned S.D.J.M., Phulbani, Kandhamal in G.R. Case No.42 of 2008. Involving the allegation against the petitioner, it appears the Criminal Proceeding initiated in the year 2008, but charge-sheet involving the criminal case was

submitted in the year 2013. However the said criminal case is yet to be disposed of. Pleading also further made clear that no Disciplinary Proceeding initiated against the petitioner on the same set of charges as of criminal case. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2018 has not been given only on the premises that a criminal proceeding involving the petitioner is pending since 2008. The petitioner will retire from service in the year 2024 on attaining the age of superannuation. For the settled position of law, this Court in disposal of the writ petition observes, petitioner cannot suffer for the long pendency of the criminal proceeding. It is also not known when the criminal Proceeding initiated in the year 2008 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Principal Secretary to Govt. of Odisha, Revenue & Disaster Management, Bhubaneswar-O.P. No.1 to give promotion to the petitioner to the rank of Head Clerk from the date of his juniors and batchmates got such promotions. However the promotions of the petitioner as per direction of this Court shall be subject to the ultimate outcome in the criminal Proceeding. Further it is also clarified that the promotions given to the petitioner to Head Clerk shall not confer equity in the event, he will ultimately lose the criminal Proceeding. Entire exercise shall be completed within four weeks from the date of communication of this direction. It is also clarified that upon promotion, petitioner shall also be entitled to all consequential benefits.

7. Writ the above observation, the writ petition thus stands disposed of

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

