

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6744 of 2022

Sri Bikali Charan Swain

....

Petitioner

Mr. Sudepta Kumar Singh, Advocate

-versus-

State of Odisha and another

....

Opposite Parties

Mr. K.K. Nayak, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

08.04.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The writ petition involves the following relief:
- “Under the aforesaid circumstances, it is humbly prayed that your Lordship’s may graciously be pleased to direct the Opp. Party No.2 to promote the petitioner to the post of Dy. Executive Engineer, from 1.1.2020 and further to the post of Executive Engineer from 20.01.2021 the dates on which his juniors got such promotion to the rank of Dy. Executive Engineer and Executive Engineer.”
4. Learned counsel for the Petitioner submits that the Petitioner is going to retire on 30.04.2022. It is further submitted that due to pendency of vigilance case since 2015, although the name of the Petitioner was sent for promotion to the post of DCP, but the same was not considered by the Authority due to vigilance case. Therefore, the present writ petition has been filed praying for a direction to the Opposite Parties to give promotion considering the allegation of the Petitioner. Further learned counsel for the Petitioner has relied upon certain judgments in support of his case. In the case

of *Punjab vs. Chamanlal Goyal*, reported in 1995 (2) SCC 570, in the case of *Sushanta Nanda vs. Union of India (UOI) and others*, reported in 2011 (I) OLR 649, in the case of *P.Kishore Subudhi vs. State and another (W.P.(C) No.23259 of 2020, decided on 05.08.2021)* and *Dr.Sushama Barik vs. State of Odisha and another (W.P.(C) No.21795 of 2021, decided on 03.08.2021)*.

5. Learned counsel for the State on the other hand submits that the Petitioner has not approached the Departmental Authority. Let the Petitioner approach the Departmental Authority indicating his grievance, which shall be considered within a specific period of time as per the direction of this Court.

6. Considering the limited nature of grievance, this Court disposes of the writ petition with a direction to the Petitioner to file a fresh representation within a period of one week from today along with certified copy of this order and the judgments of the Hon'ble Supreme Court as well as this Court relied upon by the Petitioner, within a period of two weeks. In such event, the Authority shall dispose of the same keeping in view the ratio laid down in the judgment of the Hon'ble Supreme Court as well as High Court of Orissa, within a period of four weeks thereafter. The Authority is further directed to dispose of the representation by passing a reasoned and speaking order after affording opportunity of hearing to the Petitioner. The decision so taken shall be communicated to the Petitioner within a period of two weeks thereafter. If the Authority comes to a conclusion that Petitioner is eligible and entitle to the post as per the above judgments, promotion as due shall be given to the Petitioner along with all service benefits.

7. With the above direction, the Writ Petition stands disposed of.
8. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge

U.K.Sahoo

