

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 9029 of 2021

Pramod Kumar Sahoo

....

Petitioner

Mr. P.K. Mishra, Adv.

-Versus -

State of Odisha and others

....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

17.02.2022

Order No.
07

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 Superintending Engineer, Level-II from the date his immediate juniors got such promotion pursuant to the D.P.C. dated 07.12.2019, and to grant 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 Disciplinary Proceeding

and/or Vigilance Proceeding for decades becomes bad.

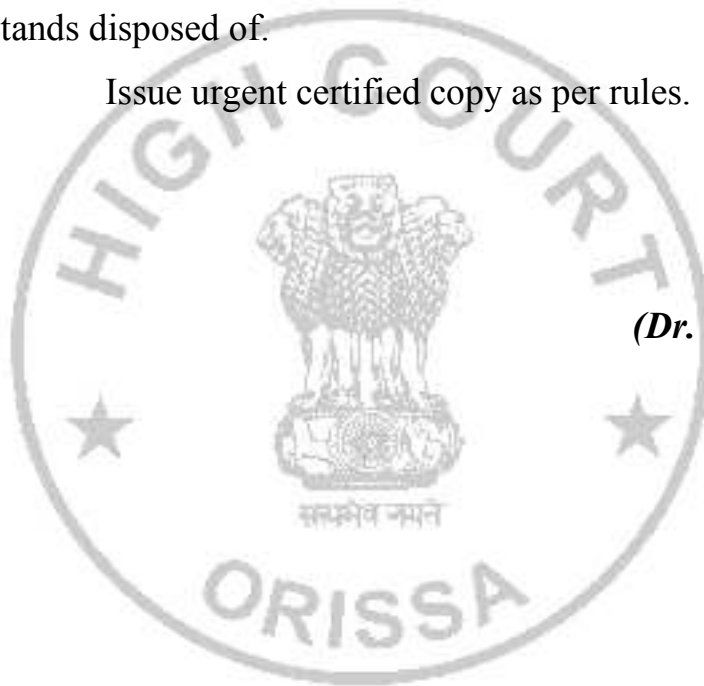
6. Fact involving the case reveals that there is one disciplinary proceeding was initiated on 05.11.2020 much after promotion of his juniors and the same is pending against the petitioner, and one the vigilance proceeding pending in the court of Special Judge, Vigilance, Bhubaneswar in V.G.R. Case No.44 of 2019 arising out of Bhubaneswar Vigilance P.S. Case No.41 dated 26.09.2019. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2019, but charge-sheet involving the Vigilance case has not been submitted till date. However the said vigilance case is yet to be disposed of. Pleading also further made clear that one disciplinary proceeding is pending against the petitioner on the same allegation and the same has been initiated much after promotion of his juniors. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2019 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is registered since 2019 and placed under suspension. For the settled position of law, this Court in disposal of the writ petition observes, petitioner cannot suffer for the long pendency of the vigilance proceeding. It is also not known when the Vigilance 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 to Govt. of Odisha, Housing and Urban Development Department-O.P. to give promotion to the petitioner to the rank of Superintending Engineer (c), Level-II from the date of his juniors and batchmates got such promotion pursuant to

D.P.C. dated 07.12.2019. However the promotion of the petitioner as per direction of this Court shall be subject to the ultimate outcome in the Vigilance Proceeding. Further it is also clarified that the promotion given to the petitioner to the rank of Superintending Engineer, Level-II cadre shall not confer equity in the event, he will ultimately lose the Vigilance 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.

Alok



(Dr. B.R. Sarangi)
Judge