IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7440 of 2022

Jayakrushna Behera .... ***Petitioner***

Mr. Gyanaranjan Sethi, Advocate

-versus-

State of Odisha and others .... ***Opposite Parties***

Mr. P.C. Das, ASC for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
04.04.2022

Order No.

01. 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. Perused the records attached to the writ petition.

3. The present writ petition has been filed by the Petitioner with the following relief:

> "It is therefore humbly prayed that this Hon'ble Court may graciously be pleased to admit the case, call for the records and after hearing both the parties pass the following reliefs:
>
> i) To direct the Opp. Parties to promote the petitioner to the rank of Section Officer from the date when opposite party no.3 has got promotion with all financial and consequential service benefits.
>
> ii) And pass such other order/orders as may be deemed fit and proper for the interest of justice."

4. It is submitted by learned counsel for the Petitioner that although DPC was held on 17.10.2020 for promotion to the post of Section Officer, the case of the Petitioner was not recommended due

to non-availability of relevant CCR as per the letter dated 18.07.2005 of the Government in General Administration Department. Further it has been observed that later on Special DPC/Review DPC convened on 30.04.2021, again the case of the Petitioner could not be considered for non-availability of CCR. Another DPC meeting was held on 20.12.2021, the fate of the Petitioner did not change and his case was again not considered due to want of relevant CCR. It is submitted by learned counsel for the Petitioner that due to latches on the part of the Authority of the Department, he has been deprived of getting his promotion thereby violated Articles 14 and 16 of the Constitution of India.

5. In reply to the submissions made, learned counsel for the State submits that the case of the Petitioner was although placed before the DPC as well as before the Review DPC, but the same was not considered due to non-availability of CCR. He further submits that the case of the Petitioner is not considered and he is denied for promotion and in the event CCR be made available to the DPC, his case will be considered for promotion.

6. After hearing learned counsel for the parties, this Court is of the considered view that Petitioner cannot be made to suffer indefinitely due to negligence on the part of the Authority of the Department, whose duty is to produce the relevant CCR before the DPC committee and the same shall be considered in accordance with law. It is apparent that due to latches on the part of the Authority, Petitioner has been discriminated for getting promotion to the next level.

7. Considering the submission made and the facts and circumstances of the present case, this Court directs the Authority,

i.e. Collector, Koraput, Opposite Party No.2 to immediately convene a review DPC and consider the case of the Petitioner for promotion and in the event, the Petitioner is found eligible and there is no other legal impediment, the Petitioner be granted promotion from the date, the similarly circumstances persons have been given promotion keeping in view the seniority aspect. It is open for the Opposite Party No.2 to produce the CCR of the Petitioner, if not produced till date. The Authority is also directed to take disciplinary action against the person who is responsible for not producing the CCR of the Petitioner before the DPC committee. The entire exercise shall be completed within a period of two months from the date of communication of certified copy of this order.

8. With the above direction, the Writ Petition stands disposed of.

9. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge

U.K.Sahoo