

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8865 of 2022

Anil Kumar Sahu

....

Petitioner

Mr. S.K. Das, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Y.S.P. Babu, A.G.A.

**CORAM:
JUSTICE A.K. MOHAPATRA**

**ORDER
02.05.2022**

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the petitioners as well as learned counsel for the State.
3. The petitioner has filed this application seeking direction to the opposite parties to give him promotion to the post of Assistant Engineer from 13.05.2021, i.e. the date from which his immediate juniors got such promotion, 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 no disciplinary proceeding pending against the petitioner except the vigilance proceeding pending in the court of C.J.M., Phulbani in G.R. Case No.126 of 2016 arising out of Gochhapada P.S. Case No.16 of 2016. Involving the allegation against the petitioner, it appears the Criminal Proceeding initiated in the year 2016, but charge-sheet involving the Vigilance case was submitted in the year 2016. However, the said case is yet to be disposed of. Pleading also further made clear that no Disciplinary Proceeding initiated against the petitioner. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2021 has been kept in sealed cover only on the premises that a criminal proceeding involving the petitioner is pending since 2016. 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 2016 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, Pannchayati Raj Department, Bhubaneswar-O.P. No.1 to give promotion to the petitioner to the rank of Assistant Engineer (Civil) from the date of his juniors and batchmates got such promotion i.e. 13.05.2021. 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 promotion given to the petitioner to different ranks 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/direction, the writ petition thus stands disposed of.

Urgent certified copy of this order be granted on proper application.

*(A.K. Mohapatra)
Judge*

Jagabandhu

