

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 9470 of 2022

Subhendu Mishra

.....

Petitioner

Mr. B.C. Ghadei, Advocate

-Versus-

State of Odisha & Ors.

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

01.12.2022

Order No.
04

This matter is taken up through hybrid mode.

Heard learned counsel for the parties.

The petitioner has filed this application seeking direction to the opposite parties to give him promotion to the post of Lecturer (Group-A)/Reader (SS) from 22.12.2017, 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.

Moot question involves whether promotion of an employee can be withheld for indefinite period on the premises of pendency of vigilance proceeding over a period of decades.

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.

Fact involving the case reveals that there is no disciplinary proceeding pending against the petitioner except the vigilance proceeding pending in the court of Special Judge, Vigilance, Bhubaneswar in T.R. Case No. 29 of 2018 arising out of Bhubaneswar Vigilance P.S. Case No. 47 of 2012. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2012, but charge-sheet involving the Vigilance case was submitted in the year 2017. However the said vigilance case is yet to be disposed of. Pleading

also further made clear that no Disciplinary Proceeding pending against the petitioner. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2017 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2012. 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 2012 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, Higher Education Department, Bhubaneswar-O.P. No.1 and Director of Higher Education Department, Odisha, Bhubaneswar, opposite party no.2 to give promotions to the petitioner to the rank of Lecturer (Group-A)/Reader (SS) from 22.12.2017, 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 Vigilance Proceeding. Further it is also clarified that the promotions given to the petitioner to different ranks 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 promotions, petitioner shall also be entitled to all consequential benefits.

Writ the above observation and directions, the writ petition thus stands disposed of

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok