

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11169 of 2022

Prafulla Kumar Behera

....

Petitioner

Mr. Laxmi Prasad Dwivedy, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. YSP Babu, AGA for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

06.05.2022

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

“Under the aforesaid facts and circumstances, it is therefore, prayed that this Hon’ble Court may graciously be pleased to:

- i) Direct/order the Opp. Parties to give promotion to the Petitioner to the rank of Revenue Inspector, w.e.f. 21.01.2021, i.e. the date from which his immediate juniors got such promotion and thereby grant all consequential service and financial benefits in favour of the Petitioner, within a stipulated period, as maybe prescribed by this Hon’ble Court for the interest of justice;
- ii) Pass such other order(s) or issue direction(s) as may be deemed fit and proper in the bona fide interest of justice;

And for this act of kindness, the Petitioner as in duty bound shall ever pray.”

4. It is submitted by learned counsel for the Petitioner that the Petitioner was initially engaged as Amin in the year 2012. While discharging his duty as such in the office of Astaranga Tahasil, a vigilance case bearing Vigilance P.S. Case No.16, dated 26.06.2020 has been initiated against the Petitioner under Section 7 of the Prevention of Corruption (Amendment) Act, 2018. Accordingly, he was forwarded to jail custody in the above case. Subsequently, he was placed under suspension by the Opposite Party No.2, vide order dated 08.07.2020. Again on 18.01.2021, the Petitioner has been reinstated in service and posted at Kanas Tahasil, Kanas under Puri district.

5. It is further submitted by learned counsel for the Petitioner that the Disciplinary Proceeding was initiated against the Petitioner basing on the allegation made in the Vigilance P.S. Case No.16 of 2020. Memorandum of charges has also been framed on 12.01.2021 and an Enquiry Officer was also appointed on 24.02.2021. It was further submitted that the Petitioner is eligible to be promoted to the next higher post. In the meantime, DPC has been convened. But the result of the present Petitioner has been kept under sealed cover. The Petitioner in the present writ petition prays for a direction to the Opposite Parties to open the result kept under sealed cover and give him promotion to the ad hoc post, till disposal of the aforesaid proceeding pending before the authorities.

6. Learned counsel for the Petitioner has relied upon the order of this Court dated 05.08.2021, passed in W.P.(C) No.23259 of 2020 (*P. Kishore Kumar Subudhi vs. State of Odisha & Anr.*), wherein

in a similar case, the Petitioner therein has been directed to be promoted to the next higher post subject to ultimate outcome in the vigilance proceeding, but with a stipulated that he shall not confer any equity in the service in the event he lose in the vigilance proceeding.

7. Learned counsel for the State on the other hand submits that in the above referred case, the vigilance case has been initiated against the Petitioner therein in the year 2009. Accordingly, this Court has directed the Authorities to take into consideration the long pendency of the matter. However, the proceeding has been initiated against the present petitioner only in the year 2020, therefore the same is not applicable to the facts of the present case.

8. Considering the rival contentions of the parties and considering the materials on record, this Court is inclined to dispose of the writ petition at the stage of admission with a direction to the Petitioner to file a fresh representation before the Collector-cum-District Magistrate, Puri, Opposite Party No.2 within two weeks ventilating his grievance and grounds available to him in law. In such event, Opposite Party No.2 shall take into consideration the same in accordance with law and shall pass a speaking and reasoned order within the time as stipulated above. It is made clear that this Court has not expressed any opinion on the merits of the case.

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

10. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge

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