

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11546 of 2022

Makar Behera

..... Petitioner
Mr. P.K.Mohapatra, Advocate

-versus-

State of Odisha and others

..... Opp.Parties
Mr.K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

13.05.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and the learned Additional Standing Counsel.
3. The Petitioner has filed this application seeking direction to the Opposite Parties to give him promotion to the post of Assistant Executive Engineer (Civil) from 30.04,2022 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.
4. Moot question involved if a promotion of employee can be withheld for indefinite period on the premises of pendency of vigilance proceedings 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 long period becomes bad.

6. Fact involving the case reveals that there is vigilance proceeding is pending in the Court of Special Judge, Vigilance, Bhubaneswar in Bhubaneswar Vigilance P.S. Case No.05 of 2007 and 43 of 2009. However, the said vigilance cases are yet to be disposed of. Pleading also further made clear that Disciplinary Proceedings initiated against the Petitioner are pending. IN this background of case an allegation is made that promotion of the Petitioner has been kept in sealed cover only on the premises that vigilance proceedings involving the petitioner are pending since long. 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 proceedings. It is also not known when the Vigilance Proceedings initiated in the year 2007 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Commissioner-cum-Secretary to Government of Odisha, Water Resources Department, Bhubaneswar to give promotion to the Petitioner to the rank of Assistant Executive Engineer from the date of his juniors and batch mates 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 the rank of Assistant Executive Engineer 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. With the aforesaid observation, the writ petition thus stands disposed of.
8. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra,)
Judge

