

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No. 16798 of 2022**

**Debadutta Dash**

**....**

**Petitioner**

***-versus-***

**State of Odisha & Ors.**

**....**

**Opposite Parties**

**CORAM:**

**JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER**

**02.08.2022**

**Order No**

**02.**

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard learned counsel for the Parties.

3. The petitioner has filed this application seeking direction to the opposite parties to give him promotion to the post of Assistant Executive Engineer from the date of 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 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 but one vigilance proceeding is pending in the Court of Chief Judicial Magistrate, Cuttack in VGR Case No. 39 of 2001 arising out of Cuttack Vigilance P.S. Case No. 39 of 2001. However the said vigilance 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 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2001. 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 2001 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, Department of Water Resources, Bhubaneswar-O.P. No.1 to give promotion to the petitioner to the post of Assistant Executive Engineer 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 promotion, petitioner shall also be entitled to all consequential benefits.

7. Writ the above observation, the writ petition thus stands disposed of.

Issue urgent certified copy as per rules.

**(Biraja Prasanna Satapathy)**  
**Judge**

*Sneha*

