

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16940 of 2022

Narayan Nayak

....

Petitioner

-versus-

State of Odisha & Another

....

Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
18.07.2022**

Order No

1. 1. This matter is taken up through Hybrid Mode.
2. 2. Heard learned counsel for the Parties.
3. 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 31.12.2020, i.e. the date from which his immediate junior got such promotion, and to grant all consequential service and financial benefits including further promotion within a stipulated time.
4. 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. 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. 6. Fact involving the case reveals that there is a disciplinary proceeding pending against the petitioner which has been stayed by this Court, but the vigilance proceeding is pending in the Court of Special Judge, Vigilance, Berhampur in VGR Case No.49 of 2012

arising out of Berhampur Vigilance P.S. Case No.49 of 2012 charge sheet has filed. 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 2012. However the said vigilance case is yet to be disposed of. Pleading also further made clear that Disciplinary Proceeding pending against the petitioner was stayed by this Court. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2020 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, Water Resources Department, Bhubaneswar-O.P. No.1 to give promotion to the petitioner to the rank of Assistant Executive Engineer (Civil) from the date of his junior and batchmates got such promotion i.e. 31.12.2020. However the promotion 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 promotion 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. With the above observation, the Writ Petition thus stands disposed of.

Issue urgent certified copy as per Rules.

(Biraja Prasanna Satapathy)
Judge

Subrat