

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)No.17642 of 2022

Sri Surendranath Sinku

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

21.07.2022

Order No

2.

1.

This matter is taken up through Hybrid Mode.

2.

The memo enclosed the Vigilance Proceeding against the petitioner is filed in Court today be kept on record.

3.

The petitioner has filed this application seeking direction to the Opposite Parties to give him promotion to the post of Deputy Director, Mines with effect from 30.12.2020 i.e. the date from which his immediate junior, Sri L.D. Naik got such promotion, and to grant all consequential service and financial benefit 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 a Disciplinary Proceeding against the petitioner besides the Vigilance Proceeding pending in the Court of Special Judge, Vigilance, Baripada in P.S. Case No.15 of 2012 converted to V.G.R. Case No.13 of 2012 involving

the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2012. However, the said vigilance case is yet to be disposed of. Pleading also further made clear that Disciplinary Proceeding is initiated against the petitioner. In this background of case an allegation is made that promotion of the petitioner taking effect from 30.12.2020 has been denied 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 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 Opposite Parties to give promotion to the petitioner to the rank of Deputy Director, Mines from the date of his junior Sri L.D. Naik got such promotion. 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 the rank of Deputy Director, Mines 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 and direction, the writ petition stands disposed of.

8. Issue urgent certified copy as per rules.

(Biraja Prasanna Satapathy)
Judge

Subrat