

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.18170 of 2022

Debarchan Patel

....

Petitioner

Mr.Bhakta Ranjan Barik, Advocate

-versus-

State of Odisha& another

....

Opp. Parties

Mr.P.K.Rout, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

28.10.2022

Order No.

03

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 present writ application has been filed by the Petitioner with the following prayer:

“It is therefore, prayed that this Hon’ble Court may be graciously pleased to direct the Collector, Sundargarh (Opp.Party No.2) to consider the case of the Petitioner for promotion by holding review DPC and to give promotion to the post of Section Officer within a specified time as there is neither any D.P. is pending against him nor major penalty has been imposed. If the Opp.Parties fail to show cause or show insufficient cause issue a writ in the nature of Mandamus or any other appropriate writ/writs, order/orders, direction/directions in directing the Opp.Party No.2 to

consider the case of the Petitioner for promotion by holding review DPC and to give promotion to the post of Section Officer from the date juniors have given within a time to be stipulated by this Hon'ble Court.”

4. It is submitted by the learned counsel for the Petitioner that the Petitioner has approached this Court being aggrieved by the conduct of the Opposite Party employer for not considering his promotion to the post of Section Officer on the ground that a Disciplinary Proceeding is pending against the present Petitioner in the shape of D.P. No.03 of 2015.

5. It is submitted by the learned counsel for the Petitioner that the aforesaid D.P.No.03 of 2015 has already been concluded and some minor penalty has been awarded.

6. Learned Additional Government Advocate on the other hand submits that the Disciplinary Proceeding has been concluded and some minor penalty like stoppage of increment has been imposed on the Petitioner.

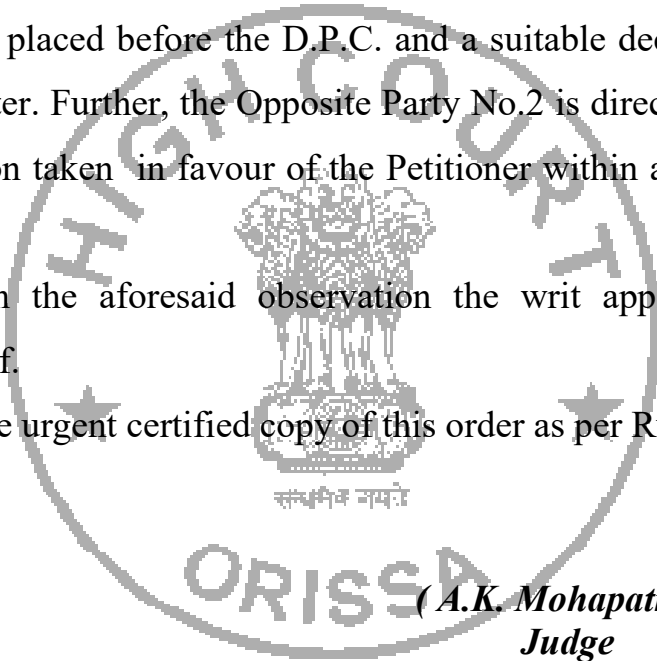
7. Learned Counsel for the Petitioner further submits that the disciplinary proceeding has attained its finality. Several D.P.C. have taken place however the case of the Petitioner has not been considered and persons junior to the Petitioner have been given promotion in the meantime.

8. Having heard learned counsel for the parties and upon a careful consideration of the facts and circumstances of the present case, this Court is of the considered view that there is no legal impediment in considering the case of the Petitioner for promotion as the disciplinary proceeding has already been concluded with minor penalty.

9. In such view of the matter, the writ application is being disposed of without expressing any opinion on the merits of the case with a direction to the Petitioner to approach the Collector, Sundarargarh, Opposite Party No.2 by filing a comprehensive representation with supporting documents within three weeks from today. In the event such representation is filed, the Opposite Party No.2 shall consider the case of the Petitioner and in the event it is found that the Petitioner is lawfully eligible to be promoted to the next higher post, a DPC be constituted within two weeks thereafter and the matter of promotion of the Petitioner to the post of Section Officer be placed before the D.P.C. and a suitable decision be taken in the matter. Further, the Opposite Party No.2 is directed to intimate the decision taken in favour of the Petitioner within a period of two weeks.

10. With the aforesaid observation the writ application stands disposed of.

11. Issue urgent certified copy of this order as per Rules.



(A.K. Mohapatra)
Judge