

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.20003 of 2022
Sarada Prasana Mohanty **Petitioner**

-VERSUS-

State of Odisha & Ors. **Opp. Parties**

COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
11.08.2022

Order No

2. 1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the parties.
3. The petitioner has filed this application seeking direction to the opposite party to give him promotion to the post of (OT & AS) Class-II from 29.8.2015 i.e. the date from which his immediate juniors got such promotion, and to grant 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 Departmental 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. Involving the allegation against the petitioner, it appears the Departmental Proceeding initiated in

the year 2011. However the said D.P case is yet to be disposed of. Pleading also further made clear that Disciplinary Proceeding is initiated against the petitioner since 2011. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2015 has been kept in sealed cover only on the premises that a Disciplinary proceeding involving the petitioner is pending since 2011. For the settled position of law, this Court in disposal of the writ petition observes, petitioner cannot suffer for the long pendency of the disciplinary proceeding. It is also not known when the disciplinary Proceeding initiated in the year 2011 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, Panchayatiraj & Drinking Water Department, Bhubaneswar-Opposite Party No.1 to give promotion to the petitioner to the rank of (OT & AS) Class-II, Odisha Taxation & Accounts Service by way of Selection, 2013 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 disciplinary Proceeding. Further it is also clarified that the promotion given to the petitioner to different ranks of (OT & AS) shall not confer equity in the event, he will ultimately lose the Disciplinary 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.

(Biraja Prasanna Satapathy)
Judge

sangita

