

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20748 of 2022

Brusava Kumar Pradhan Petitioner

-versus-

State of Odisha & Ors. Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
17.08.2022**

Order No

- 01.** 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 from Executive Engineer (Mech.) to Superintending Engineer (Mech.), from the date of 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 whether promotion of an 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 the departmental proceeding bearing Water Resources Memorandum No.15/WR dated 04.01.2022 is pending. Involving the allegation against the petitioner, it appears that the departmental proceeding was initiated in the year 2022, but the departmental proceeding is yet to be disposed of. Pleading also further made clear that no vigilance proceeding pending against the petitioner. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2022 has not been effected only on the premises that a departmental proceeding involving the petitioner is pending since 2022. For the settled position of law, this Court in disposal of the writ petition observes, petitioner cannot suffer for the pendency of the departmental proceeding. It is also not known when the departmental proceeding initiated in the year 2022 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Addl. Chief Secretary, Govt. of Odisha-opposite party no.1 to give promotions to the petitioner to the rank Executive Engineer (Mech.) to Superintending Engineer (Mech.) from the date of his juniors and batchmates got such promotion under Annexure-6. However, the promotion of the petitioner as per direction of this Court shall be subject to the ultimate outcome in the departmental proceeding. Further it is also clarified that the promotion given to the petitioner to the rank from Executive Engineer (Mech.) to Superintending Engineer (Mech.), shall not confer equity in the event, he will ultimately lose the departmental proceeding. Entire exercise shall be completed within four weeks from the date of communication of this direction. It is also clarified that upon promotions, petitioner shall also be entitled to all consequential benefits.

7. With the above observation and directions, the writ petition thus stands disposed of.

Issue urgent certified copy as per rules.

(Biraja Prasanna Satapathy)
Judge

Sneha

