

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.23801 OF 2022

Rama Chandra Patro

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

30.9.2022

Order No

1. 1. This matter is taken up through Hybrid Mode.

2. Heard learned counsel for the parties. The petitioner has filed this application seeking direction to the opposite parties to give him promotion to the post of Section Officer and all consequential benefits be extended to the petitioner, taking into consideration the circular dated 18.02.1994 and judgment of the apex Court in the case of Union of India v. K.V. Janakiraman, AIR 1991 SC 2010.

3. 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.

4. 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.

5. Fact involving the case reveals that there is

disciplinary proceeding against the petitioner and on the self-same allegations, the vigilance proceeding pending in the court of Special Judge (Vigilance), Jeypore in Vigilance G.R. Case No.14 of 2014(V). Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2014. However the said vigilance case is yet to be disposed of. Pleading also further made clear that no Disciplinary Proceeding initiated against the petitioner is pending till finalization of the said vigilance case. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 15.6.2022 (Annexure-7) has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2014. 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 2014 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Collector, Rayagada (Opp. Party No.2) to give promotion to the petitioner to the rank of Section Officer from the date of his juniors and batchmates 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 Section Officer 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.

6. Writ the above observation, the writ petition thus stands disposed of

(Biraja Prasanna Satapathy)
Judge

sangita

