

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 28618 of 2021

Goura Chandra Sahoo

.....

Petitioner

Mr. S.K. Das, Advocate

-Versus-

State of Odisha & another

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

19.12.2022

Order No.
03.

This matter is taken up through video conferencing.

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 of Senior SES from 30.06.2014 & OES-II from 16.11.2020, i.e. the date from which 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 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 pending against the petitioner since 04.02.2012 and the vigilance proceeding pending in the court of Special Judge, Angul, in T.R. Case No. 42 of 2013 arising out of Cuttack Vigilance P.S. Case No. 54 of 2011. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2011, but charge-sheet involving the Vigilance case was submitted in the year 2013. However the said vigilance case is yet to be disposed of. Pleading also further

made clear that a Disciplinary Proceeding pending against the petitioner since 2013. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2014 has been kept in sealed cover only on the premises that a vigilance 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 vigilance proceeding. It is also not known when the Vigilance 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, School & Mass Education Department, Bhubaneswar-O.P. No.1 and Director, Secondary Education, Odisha, Bhubaneswar, opposite party no.2 to give promotions to the petitioner to the rank of Senior SES from 30.06.2014 and OES-II from 16.11.2020, 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 Vigilance Proceeding. Further it is also clarified that the promotions given to the petitioner to different ranks 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 promotions, petitioner shall also be entitled to all consequential benefits.

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

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok