

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 1241 of 2018

Biswa Bhusan Mohanty

.....

Petitioner

Mr. S. Mallik, Advocate

-Versus-

Sate of Odisha & Others

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

15.09.2022

Order No.
02.

This matter is taken up through hybrid mode.

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 Head Clerk from 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.

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.

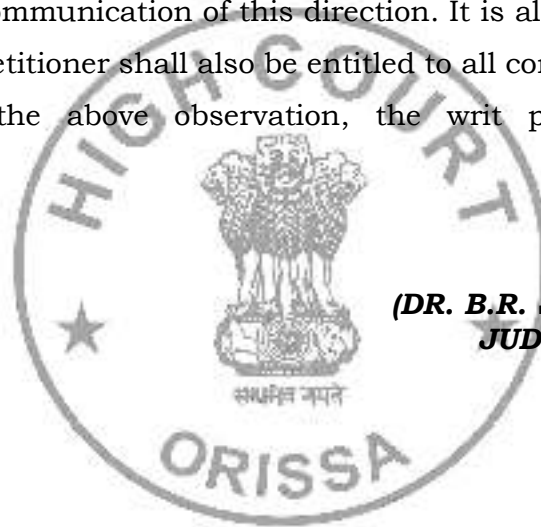
This Court considering such situation has already settled the position of law keeping the sealed cover promotion aspect in view of pendency of the Disciplinary Proceeding and/or Vigilance Proceeding for decades becomes bad.

Fact involving the case reveals that there is a disciplinary proceeding pending against the petitioner in memorandum dated 09.06.2008 and criminal case is pending in the court of learned JMFC, Umerkote in G.R. Case No. 131 of 2008. Charge Sheet has not been submitted. Involving the allegation against the petitioner, it appears the criminal Proceeding initiated in the year 2008, but charge-sheet involving the criminal case has not yet been submitted. However the said criminal case is yet to be disposed of. In this background of case an allegation is made that promotion of the petitioner taking effect in the

year 2010 has been kept in sealed cover only on the premises that a criminal proceeding involving the petitioner is pending since 2008. 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 criminal Proceeding initiated in the year 2008 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Collector, Nabarangpur-O.P. No.2 to give promotion to the petitioner to the rank of Had Clerk from the date of his juniors and batch mates got such promotions. However the promotions of the petitioner as per direction of this Court shall be subject to the ultimate outcome in the Criminal Proceeding. Further it is also clarified that the promotion given to the petitioner to different ranks shall not confer equity in the event, he will ultimately lose the Criminal 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.

With the above observation, the writ petition thus stands disposed of

Arun



(DR. B.R. SARANGI)
JUDGE