

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No.2756 of 2018

Anirudha Puhan

.... Petitioner

-versus-

State of Odisha & Ors.

.... Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
23.09.2022**

Order No

- 01.** 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 parties to give him promotion to the post of Executive Engineer on 29.08.2017 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 if a promotion of 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

besides the vigilance proceeding pending in the Court of Special Judge, Vigilance, Bhubaneswar in T.R. Case No.58/2005 arising out of Balesore Vigilance P.S. Case No.29 of 2002. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2002, but charge-sheet involving the Vigilance case was submitted in the year 2004. However the said vigilance case is yet to be disposed of. Pleading also further made clear that a Disciplinary Proceeding pending against the petitioner. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2017 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2002. The petitioner will retire from service w.e.f. 30.04.2028 on attaining the age of superannuation. 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 2002 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Engineers-in-Chief-cum-Secretary to Govt. Works Department (Opp. Party No.1), Opp. Party No.2 to give promotions to the petitioner to the rank of Executive Engineer, Engineer-in-Chief, Odisha Nirman Soudh, BBSR (Opp. Party No.2), 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 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 promotion, petitioner shall also be entitled to all consequential benefits.

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

Issue urgent certified copy as per rules.

(Biraja Prasanna Satapathy)
Judge

Subrat

