

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 780 of 2018

Bijaya Kumar Sarangi

.....

Petitioner

Mr. B. Mohanty, Adv.

-Versus-

.....

Opposite Parties

State of Odisha and Ors.

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

13.09.2021

Order No.

01.

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 Dy. Executive Engineer (Civil) and Executive Engineer (Civil) from 26.08.2019, the date from which his immediate junior, Sarbeswar Senapati 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.

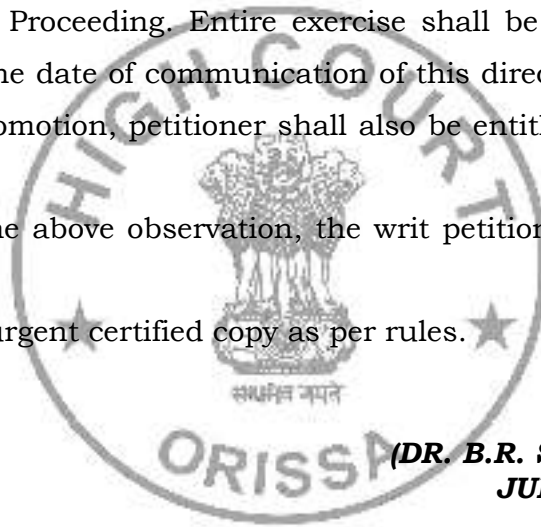
This Court considering such situation has already settled the position of law keeping the sealed cover promotion aspect in view of pendency of the Disciplinary Proceeding and/or Vigilance Proceeding for decades becomes bad.

Fact involving the case reveals that there is no disciplinary proceeding against the petitioner except vigilance proceeding in Cuttack Vigilance Case. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2004, but charge-sheet involving the Vigilance case was submitted much after. However the said vigilance case is yet to be disposed of. Pleading also further made clear that no 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 2014 has been rejected only on the premises that a vigilance proceeding involving the petitioner is pending since 2004. 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 2004 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, Housing and Urban Development Department-O.P. No.1 to give promotion to the petitioner to the rank of Dy. Executive Engineer (Civil) & Executive Engineer (Civil) 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 Dy. Executive Engineer (Civil) & Executive Engineer (Civil) 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.

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

Issue urgent certified copy as per rules.



(DR. B.R. SARANGI)
JUDGE