

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OA) No.2992 of 2015

Chitta Ranjan Mohanty

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

05.07.2022

Order No

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. R. Mohanty, learned counsel for the Petitioner and Mr. M. Balabantaray, learned standing counsel appearing for the Opp. Parties.

3. The Petitioner is aggrieved by order dtd.02.11.2015 passed by the Govt.-O.P. No. 1 under Annexure-8. In the said order and while complying the direction of the learned Tribunal passed on 18.11.2015 in O.A. No.2005 of 2019, the Petitioner was intimated that since the DPC has not recommended the case of the Petitioner for his promotion and has found him unsuitable, his claim for promotion cannot be entertained and accordingly the same was rejected.

4. Mr. Mohanty, learned counsel for the Petitioner submitted that since by the time the DPC proceeding was held on 22.02.2012, two (2) nos. of DPC proceedings were pending against him, the DPC

did not recommend the case of the Petitioner for his promotion on that ground only. It is also indicated in the minutes of the said proceeding annexed vide Annexure-2 to the writ Petition. Mr. Mohanty further submitted that subsequently vide order dtd.22.06.2013 under Annexure-4 and 07.10.2013 under Annexure-5, the Petitioner was exonerated from all the charges in both the DPC.

5. Mr. Mohanty further submitted that subsequent to his exoneration from the charges he approached the Opp. Party No. 1 under Annexure-6 with a prayer to consider his case for promotion as he has been exonerated from the charges in both the proceeding. It is further submitted that the Petitioner when approached the learned Tribunal in O.A. No. 2605 of 2014, learned Tribunal vide order dtd. 14.11.2014 while disposing the matter directed the Opp. Party No. 1 to open the sealed cover and to give promotion to the Petitioner along with other consequential financial benefits including retiral dues as per G.A. Department Office Memorandum dtd.18.02.1994. Mr. Mohanty submitted that without following the said order O.P. No. 1 simply issued the impugned order by intimating that since the DPC has found the Petitioner unsuitable, his claim cannot be entertained.

6. Mr. Balabantaray, learned standing counsel on the other hand submitted that since the DPC has not recommended the case and learned Tribunal only directed to open the sealed cover, no illegality has been committed by passing the impugned order under Annexure-8.

7. Heard learned counsel for the Parties. It is not disputed that by the time the DPC was held on 22.02.2012, two (2) nos. of proceedings were pending against the Petitioner and accordingly

the DPC did not recommend the case of the Petitioner. But when the Petitioner was exonerated from the charges in both the proceeding vide its order under Annexure-4 & 5, Opp. Party no. 1 after opening the sealed cover should have directed for convening of a review DPC and to reconsider the claim of the Petitioner. O.P. No. 1 simply issued the order basing on the finding of the DPC. Since the Petitioner has been exonerated from the charges in both the proceedings this Court while quashing the order at Annexure-8 directs the O.P. No. 1 to take effective steps to reconvene the DPC and consider the claim of the Petitioner for his promotion from the date his juniors were so promoted basing on the recommendation of the DPC dt.22.02.2012.

8. Since it is submitted that the Petitioner has been exonerated from the charges in both the proceedings, the review DPC shall consider those aspects while taking a fresh decision. O.P. No. 1 is directed to take steps for conduct of such review DPC within a period of one (1) month from the date of receipt of this order and take consequential action on receipt of recommendation of the DPC within a further period of two (2) months. Opp. Party No. 1 is also directed to sanction all the services and financial benefits as due and admissible, if the Petitioner is ultimately given promotion within a further period of 3 (three) months.

9. The writ Petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha