IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C(OAC)No.2686 of 2015

Saroj Kumar Senapati .... **Petitioner**

-versus-

State of Odisha & Others .... **Opp. Parties**

COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

Order No **30.6.2022**

1. **1.** This matter is taken up through Hybrid Mode.

2. Heard Mr. Pattnaik, learned counsel for the Petitioner and Mr. Das, learned counsel appearing for the Opp. parties.

3. The petitioner has filed the present Writ Petition for the following relief.

> "*to direct the respondents to upgrade the post of the applicants and to create promotional avenue for the applicants.*
>
> *Direct the respondents to give them promotion to the next higher rank by immediately up-grading with all other consequential and service benefits."*

4. It is submitted that even though the petitioner is continuing in the post of Building Inspector and Building Sub-Inspector, but there is no promotional facility and petitioner are continuing in the said post from the initial date of appointment. It is submitted that the petitioner is depriving of any promotional avenue.

5. Mr. Pattnaik, relied on a decision in the case of ***Pravat Kishore Mohoanty Vs. Chairman-cum-Managing Director, Orissa State Police Housing and Welfare Corporatin Ltd. and Others*** reported in ***2015(1) ILR***

Cuttack 1028. In the said reported decision, this Court in para 10 & 11 has observed as follows:

> "*10. Applying the said principles laid down by the apex Court in the aforementioned judgments to the present context, it appears that no promotional avenue have been created for the petitioner, who is holding the post of Building Supervisor for last 28 years having requisite qualification of Diploma in Civil Engineering and otherwise also he is entitled for promotion to the next higher grade with higher scale of pay. Merely granting Time Bound Advancement scale of pay will not suffice the claim of the petitioner in view of the fact that he is deprived of getting his promotional avenues, which every employee has a desire to get and it forms part of the fundamental rights as enshrined under Article 16 of the Constitution, which emanates from Article 14 the right to equality under the Constitution. Merely taking a plea that the Corporation is under restructuring process, that itself cannot deprive the petitioner to get promotion, which he is entitled to get.*
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> *11. For the foregoing reasons, this Court direct the opposite party-Corporation to consider the case of the petitioner for promotion to the next higher post by creating the avenues in conformity with the provisions of law either by restructuring or by making suitable amendment to the Rules governing the field and such benefits should be extended to the petitioner within a period of three months from the date of passing of the order."*

6. In view of the decision so relied on by Mr. Pattnaik, this court directs Opp. party No.1 to take a decision on the claim of the petitioner as made in the Writ Petition relying on decisions cited hereinabove within a period of three months from the date of receipt of this order. The order so passed by Opp. Party No.1 be communicated to the petitioner No.1 who shall share it with the other petitioners.

7. With the aforesaid observation and direction, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

sangita