

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.4159 of 2016

Rabindra Kumar Pradhan Petitioner

-versus-

State of Odisha & Ors. Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
17.08.2022**

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 Sub-Inspector of Excise w.e.f. 20.01.2011, 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, Sambalpur in G.R. Case No.21/2008. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2008, but charge-sheet involving the Vigilance case was submitted on 21.10.2011. However the said vigilance case is yet to be disposed of. Pleading also further made clear that a Disciplinary Proceeding initiated against the petitioner since 2011 on the same set of charges as of vigilance case. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2011 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2008. 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 2008 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, Excise Department, Bhubaneswar-O.P. No.1 to give promotion to the petitioner to the rank of Sub-Inspector of Excise from the date of his juniors and batchmates 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 Sub-Inspector of Excise 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

