

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No. 1077 of 2016

Nityananda Nayak

....

Petitioner

Mr. R.K.Bisoi, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. J.P.Patnaik, GA for OPs.

**CORAM:
JUSTICE M.S.SAHOO**

ORDER

27.7.2022

Order No .

- 1** 1. This matter is taken up through hybrid mode.
2. The writ petition has been registered before this Court on 5.1.2022 after the Original Application was transferred upon abolition of the learned Odisha Administrative Tribunal, Bhubaneswar.
3. On perusal of the available order sheets of the learned Tribunal it is indicated that notices were issued on 10.6.2016 directing to file counter within four weeks and thereafter rejoinder was to be filed within two weeks. Subsequently the matter was listed on 9.11.2016, 19.1.2017 & lastly on 14.2.2017. After 14.02.2017 the matter was not taken up/pursued.
4. The applicant before the learned Tribunal filed the O.A. in the year 2016 having retired as Deputy Superintendent of Police (DSP), Biju Pattnaik State Police Academy seeking a direction to open the sealed cover keeping the result of the DPC dated 27.1.2007 for promotion to the post of Addl. Superintendent of Police and grant him the consequential benefits of promotion to the post of Additional Superintendent of Police with retrospective effect from the date his immediate junior got promotion with a further prayer to grant him consequential retiral benefits.

5. Learned Government Advocate produces instruction from the Govt. in the Home Department (O.P. No.1) by letter No. 16213 dated 29.4.2017 & also the notification dated 29.3.2017 which are taken on record.

6. Copy of the said letter as well as the notification have also been served on the learned counsel for the petitioner. The letter dated 29.4.2017 produced by the learned Government Advocate is reproduced herein :

“In inviting reference to the above noted O.A. No. 1077/2016 filed by Sri Nityananda Nayak, OPS (Retd), I am directed to say that in the mean time Sri Nayak (Retd.) has been exonerated from the charges framed against him in the D.P. initiated vide Memorandum No. 6067/SPS dated 11/02/2004/ Accordingly, the sealed cover containing the recommendation of the Review DPC held on 08/08/2007 in favour of Sri Nayak has been opened as per the provisions of the G.A. Department Office Memorandum No.3928/Gen dated 18/02/1994 and he has been allowed retrospective promotion to the rank of Additional S.P. w.e.f. the date of promotion of his immediate junior Sri Nilamohan Tripathy against the DPC-2006 vide Home Department Notification No. 11927/SPS dated 29/03/2017 (Copy enclosed).

The claim of the applicant Sri Nayak for retrospective promotion has already been settled.”

7. The notification dated 29.3.2017 issued by the Government is also reproduced herein :

“Sri Nityananda Nayak OPS (Retd) is promoted retrospectively on adhoc basis to the Grade of OPS Group-A (Senior Branch) i.e. to the rank of Additional Superintendent of Police in the scale of pay of Rs.15,600-39,100/- + Grade Pay of Rs.6,600/- per month in PB-3 notionally with effect from the date his immediate junior Sri Nilamohan Tripathy was promoted to the said rank vide Home Department Notification No. 896/SPS dated 23.2.2007 on the recommendation of the DPC-2006.

On retrospective promotion to the Grade of OPS Group A (Senior Branch) i.e. to the rank of Additional Superintendent of Police the inter se seniority of Sri Nityananda Nayak OPS (Retd) is fixed above Sri Nilamohan Tripathy and below Sri Niranjan Swain in the said grade.”

8. In view of the above, the petitioner having got promotion to the rank of Addl.S.P. w.e.f. the date of promotion of his immediate junior Shri Nilamohan Tripathy against the DPC of 2006, no further grievance can be raised by the petitioner regarding getting promotion to the rank of Addl. S.P.

9. Accordingly, the writ petition is disposed of.

(M.S.Sahoo)
Judge

dutta

