

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C)(OA) No. 1169 of 2016**

**Pratush Kumar Mohanty                      ....                      Petitioner**

***-versus-***

**State of Odisha & Ors.                      ....                      Opposite Parties**

**CORAM:  
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER  
28.07.2022**

**Order No**

- 01.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Bisoi, learned counsel for the Petitioner and Mr. R.N. Mishra, learned AGA appearing for the Opp. Parties.
3. The Petitioner is aggrieved by the Order dtd.26.03.2016 passed by O.P. No. 1 under Annexure-5, wherein his prayer for upgradation of his post to the post of Deputy Executive Engineer has been rejected only on the ground that the DPC did not recommend his case due to inadequate CCR and pendency of Vigilance case.
4. Learned counsel for the Petitioner submits that in view of the communication issued under Annexure-2, the post of Assistance Executive Engineer is to be redesignated as Deputy Executive Engineer. It is also submitted that since this is a case of sure upgradation of the post and there is no question of any promotion, the rejection of his claim on the ground that the Petitioner is not

eligible for such upgradation due to inadequate CCR and pendency of the Vigilance case is not legal and justified.

5. It is also submitted that person similarly situated had approached the learned Tribunal in O.A. No. 2754 of 2015 and learned Tribunal vide order dtd.29.10.2015 directed the Opp. Parties to redesignate the said post to the post of Deputy Executive Engineer. Accordingly, Mr. Bisoi submitted that O.P. No. 1 may be directed to take a fresh decision taking into account the order passed in similar cases. Though no counter affidavit has been filed by the State Counsel, Mr. Mishra, learned AGA appearing for the State fairly submitted that if this Court will direct for reconsideration of this Court, he has got no objection.

6. Considering the submission made by learned counsel appearing for the Parties, this Court while interfering with the order dtd.26.03.2016 and setting aside the same, directs O.P. No. 1 to take a fresh decision taking into account the order passed on 29.10.2015 in O.A. No. 2754 of 2015. This Court directs O.P. No. 1 to take a fresh decision within a period of two (2) months from the date of receipt of this order.

7. The writ Petition is disposed of accordingly.

**(Biraja Prasanna Satapathy)**  
**Judge**

*Sneha*