

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

**W.P.(C) No.40675 of 2021**

***Raghunath Mishra***

.....

***Petitioner***

*Mr. S.K. Das, Advocate*

Vs.

***State of Odisha and another***

.....

***Opposite parties***

*State Counsel*

**CORAM:**

**DR. JUSTICE B.R. SARANGI**

**ORDER**

**10.01.2022**

**Order No.**

01

This matter is taken up through video conferencing 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 Deputy Executive Engineer from 31.05.2019 and Executive Engineer from 05.01.2021, i.e. the date from which his immediate juniors got such promotions, and to grant 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 no disciplinary proceeding pending against the petitioner except the vigilance proceeding pending in the court of Special Judge, Vigilance,

Berhampur in VGR Case No. 31 of 2015 arising out of Berhampur Vigilance P.S. Case No. 46 of 2013. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2015, but charge-sheet involving the Vigilance case was not submitted till date. However the said vigilance case is yet to be disposed of. Pleading also further made clear that no Disciplinary Proceeding initiated against the petitioner. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2019 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2015. 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 2015 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, Water Resources Department, Bhubaneswar-O.P. No.1 to give promotion to the petitioner to the rank of Deputy Executive Engineer (Civil) and Executive Engineer (Civil) 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 promotion given to the petitioner to different ranks 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. With the above observation, the writ petition thus stands disposed of

8. As the restrictions due to resurgence of COVID-19 situation are

continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25<sup>th</sup> March, 2020, as modified by Court's Notice No. 4798 dated 15<sup>th</sup> April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7<sup>th</sup> January, 2022.

*Ashok*

**(DR. B.R. SARANGI, J.)**

