

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 40882 of 2021

Swadhin Kumar Sahoo

.....

Petitioner

Mr. B. Mansingh, Advocate

-Versus-

State of Odisha & Others

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

06.01.2022

Order No.
01

This matter is taken up through video conferencing.

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 Asst. Manager (Electrical) from 01.04.2021, i.e. the date from which his immediate juniors got such promotion, 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 a disciplinary proceeding against the petitioner besides the vigilance proceeding pending in the court of Special Judge, Vigilance, Cuttack in Cuttack Vigilance P.S. Case No. 16 of 2018 and No.15 of 2020 . Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2018 and 2020. However the said vigilance case is yet to be disposed of.

Pleading also further made clear that Disciplinary Proceeding No. 7 of 2018 and No. 2 of 2021 is initiated against the petitioner. In this background of case an allegation is made that promotion of the petitioner taking effect from 01.07.2021 has been kept in sealed cover only on the premises that the vigilance proceeding involving the petitioner is pending since 2018 and 2020. 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 2018 and 2020 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Chief Executive Officer, TPCODL, Corporate Office, At-Unit-VIII, Bhubaneswar, O.P. No.3 to give promotion to the petitioner to the rank of Asst. Manager (Electrical) from the date of his junior and batchmate, Manas Kumar Swain has 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 the rank of Asst. Manager (Electrical) 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

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE