

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35012 of 2022

Nanda Kishore Sahoo

....

Petitioner

Mr. Suraj Mohanty, Advocate

-versus-

State of Odisha and another

....

Opposite Parties

Mr. T.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

ORDER
22.12.2022

- 01.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the petitioner as well as learned counsel for the State.
 3. The petitioner has filed this application seeking direction to the opposite parties to give him promotion to the post of Asst. Executive Engineer from 30.04.2022, 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 no disciplinary proceeding against the petitioner except the vigilance proceeding pending in the court of Addl. District and Sessions Judge-cum-Addl. Special Judge, Vigilance, Keonjhar in VGR No.01 of 2019. Involving the allegation against the petitioner, it appears the Vigilance Proceeding initiated in the year 2018, but charge-sheet involving the Vigilance case was submitted in the year 2021. 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 2022 has been kept in sealed cover only on the premises that a vigilance proceeding involving the petitioner is pending since 2010. 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 2010 will come to end. It is keeping in this view, this Court in disposal of the writ petition directs the Additional Chief Secretary to Government, Water Resources Department-O.P. No.1 to give promotion to the petitioner to the rank of Asst. Executive Engineer (Civil) from the date of his juniors and batchmates got such promotion. However the promotion 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. Executive Engineer (Civil) 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.

Urgent certified copy of this order be granted on proper application.

(*A.K. Mohapatra*)
Judge



RKS