

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 40949 of 2021

Swastik Das

.....

Petitioner

Mr. R.K. Bisoi, Advocate

-Versus-

Sate of Odisha & Ors.

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

04.01.2022

Order No.
01

This matter is taken up through hybrid mode.

Heard learned counsel for the parties.

The petitioner has filed this application seeking direction to the opposite parties to give him promotion to the post of Section Officer w.e.f. 07.12.2021, i.e., the date from which his immediate junior-opposite party got such promotions, and to grant him all consequential service and financial benefits including further promotion within a stipulated time.

Moot question involves if a promotion of employee can be withheld for indefinite period on the premises of pendency of criminal proceeding over a period of decades.

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/criminal Proceeding for decades becomes bad.

Fact involving the case reveals that there is a disciplinary proceeding pending against the petitioner besides the criminal proceeding pending in the Court of learned S.D.J.M., Balasore in C.T. Case No.227 of 2010. Involving the allegation against the petitioner, it appears the criminal Proceeding initiated in the year 2010, but charge-sheet involving the Vigilance case was submitted

in the year 2016. However the said criminal case is yet to be disposed of. Pleading also further made clear that a Disciplinary Proceeding initiated against the petitioner since 2010 on the same set of charges as of vigilance case. In this background of case an allegation is made that promotion of the petitioner taking effect in the year 2021 has not been considered only on the premises that a criminal 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 criminal proceeding. It is also not known when the criminal 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 Collector, Balasore-O.P. No.2 to give promotion to the petitioner to the rank of Section Officer from the date of his junior-opposite party no.2 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 criminal Proceeding. Further it is also clarified that the promotions given to the petitioner to Section Officer shall not confer equity in the event, he will ultimately lose the criminal 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.

Writ the above observation, the writ petition thus stands disposed of

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE