

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

**W.P.(C) No.31479 of 2021**

***Mrunmaya Kumar Senapati*** .....

**Petitioner**

Mr. Bidyadhar Manasingh, Advocate

-Versus-

***State of Odisha & another*** .....

**Opposite Parties**

Mr. N.K. Praharaj, AGA

**CORAM:**

**JUSTICE S.S. MISHRA**

**ORDER**  
**15.09.2023**

**Order No.**  
**04.**

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. The petitioner has filed the present writ petition seeking a direction to the Opposite Parties for considering him for the promotion to the post of Deputy Superintendent of Police from Inspector of Police. Since he was under the zone of consideration for promotion, his case was considered by the DPC held on 28.01.2021. However, in view of the fact that a Departmental Proceeding was initiated and was pending, therefore a sealed cover procedure was adopted by the opposite parties.
3. The petitioner meanwhile had assailed the Departmental Proceeding before this Court by way of a writ petition being W.P.(C) No.6256 of 2021. The learned Single Judge of this Court vide his

order dated 31.01.2023 has been pleased to quash the entire

Departmental Proceeding by a detailed order which reads as under:

“1. This matter is taken up through Hybrid Arrangement (Virtula/Physical Mode).

2. Heard learned counsel for the petitioner as well as learned Addl. Standing Counsel for the State. Perused the writ petition as well as the counter affidavit filed by the opposite parties and the documents annexed to the respective pleadings.

3. The present writ application has been filed by the petitioner with the following prayer:-

*"That the petitioner prays your Lordship to admit the writ petition and issue Rule Nisi to the opposite parties to show cause:*

*i) As to why the charge memo against the petitioner shall not be quashed; and*

*ii) As to why opposite party No.2 shall not be directed to consider promotion of the petitioner if he is otherwise eligible with retrospective effect.*

*And may pass any such other order/orders direction as the Hon'ble Court deem fit and proper”.*

4. It is submitted by learned counsel for the petitioner that due to pendency of the disciplinary proceeding, the case of the petitioner has not been considered for promotion pending finalization of such proceeding. He further contended that although the proceeding was initiated in the year, 2015 and the petitioner has already filed his written statement of defence, the proceeding has not been concluded although more than 6 years time has elapsed in the meantime. Being aggrieved by the delay in concluding the proceeding and for non-consideration of his case for promotion on the ground of pendency of the disciplinary proceeding, the petitioner has approached this Court by filing the present writ application.

5. Learned Addl. Standing Counsel for the State, on the other hand submits that a detailed counter affidavit has been filed on 26.03.2021. Where it has been stated that the proceeding shall be concluded within three months. However, he further submits that he does not

have any up-to-date instruction whether the proceeding has been concluded in the meantime or not.

6. Considering such submissions and further taking into consideration the fact that the proceeding is pending since 2015, this Court deems it proper to dispose of the writ petition at the stage of admission by directing the opposite party No.2, D.G. and I.G. of Police to conclude the proceeding within a period of six weeks from the date of production of the certified copy of this order, if the same has not been concluded as of now. Further, it is directed that in the event the proceeding is not concluded within the aforesaid six weeks period as has been directed, then it will be deemed that the proceeding is quashed by this Court and accordingly, the opposite parties shall consider the case of the petitioner for promotion by convening the review DPC within a period of six weeks thereafter. The opposite party No.2 is directed to act upon production of the certified copy of this order. The decision taken shall be communicated to the petitioner within two weeks thereafter. The petitioner is also directed to cooperate with the authorities in an early conclusion of the proceeding, if the same is still pending.

7. Further, it is made clear that during the pendency of the aforesaid disciplinary proceeding, if any opportunity for promotion comes in the way of the petitioner then his case shall be considered by adopting the sealed cover method.

8. With the aforesaid observations/ directions the writ petition stands disposed of.

Issue urgent certified copy of this order as per Rules.”

4. The Opposite Parties had filed the counter affidavit and in paragraph-5 has averred that the case of the petitioner for the purpose of promotion was placed before the D.P.C. held in January 2021 however the recommendation of DPC had to be kept in sealed cover in view of the fact that a Departmental Proceeding was pending then.

5. I have heard the learned counsel for the petitioner as well as the Opposite Parties. The aforementioned factual position is not controverted by either of them. Therefore, the writ petition deserves to be allowed.

6. Since the ground on which the DPC recommendation was kept in the sealed cover is now not available to the Department after the quashment of the Departmental Proceeding by this Court vide order dated 31.01.2023 in W.P.(C) No.6256 of 2021 and the petitioner is falling under the zone of consideration for the promotion to the post of Deputy Superintendent of Police. His sole prayer in the writ petition to consider for promotion deserves to be allowed.

7. The present writ petition is therefore allowed and the opposite parties are directed to open the sealed cover and give effect to the result of the DPC recommendation within a period four weeks from today.

**(S.S. Mishra)**  
**Judge**