

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2023
(Arising from SLP(C)No. 1040/2021)

THE STATE OF MADHYA PRADESH & ANR.

APPELLANT(S)

VERSUS

SANJAY SHUKLA

RESPONDENT(S)

O R D E R

Leave granted.

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 16-01-2020 passed by the Division Bench of the High Court of Madhya Pradesh, Principal Seat at Jabalpur in Writ Appeal No. 740/2017, by which the Division Bench of the High Court has dismissed the writ appeal preferred by the appellant(s)/State and has confirmed the judgment and order passed by the learned Single Judge directing the appellant(s)/State to give out-of-turn promotion to the respondent, the appellants have preferred the present Appeal.

The respondent herein, who at the relevant time was serving as Sub-Inspector of Police, claimed out-of-turn promotion under Regulation 70A of the Madhya Pradesh Police Regulations *inter alia* on the ground that while he was posted as Sub-Inspector at Police Station Majhgawan, District Jabalpur, he received a message that adjoining villages are surrounded with floods, he immediately rushed to the said villages and saved the lives of many villagers.

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Initially, his case was not considered for out-of-turn promotion. However, pursuant to the order passed by the High Court, the Committee considered his case for out-of-turn promotion. By giving cogent and detailed reasons, the Committee opined that no case for out-of-turn promotion is made out. Accordingly, the respondent was not given out-of-turn promotion, as claimed. The decision of the Committee and the State not to grant out-of-turn promotion was the subject matter of writ petition before the learned Single Judge. Before the learned Single Judge, parity was claimed on behalf of the respondent/original writ petitioner *inter alia* submitting that in case of one another person, namely, Mr. B. S. Parihar, out-of-turn promotion was given. The learned Single Judge accepted the same and found fault with the report and set aside the non-grant of out-of-turn promotion. The learned Single Judge directed the State to grant out-of-turn promotion which was the subject matter of appeal before the Division Bench of the High Court. By the impugned judgment and order, the Division Bench of the High Court has dismissed the said appeal. Hence the present appeal has been preferred by the appellant(s)/State.

We have heard learned counsel appearing on behalf of the respective parties at length. At the outset, it is required to be noted that this is a case of out-of-turn promotion. The respondent claimed out-of-turn promotion under Regulation 70A of the Madhya Pradesh Police Regulations, which reads as under -

"70A.- Notwithstanding anything contained in Regulation 70, a Constable may be promoted to the rank of Head

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Constable by the Superintendent of Police with the prior approval of the Directors General of Police and a Head Constable to the rank of Assistant Sub-Inspector by the Deputy Inspector General of Police with the prior approval of the Director General of Police if he has distinguished himself in anti-dacoit operations, law and order situations of shooting competitions or in some other field of duty or who has been awarded the President's Police Medal for Gallantry or for meritorious/distinguished services, if he considers him suitable for promotion. Similarly the Inspector General of Police may promote an Assistant Sub-Inspector to the rank of Sub-Inspector and a Sub-Inspector to the rank of an Inspector on similar grounds if found suitable for promotion and subject to the prior approval of the Director General of Police. The number of officers promoted under this Regulation shall not exceed 10 per cent."

Therefore, as per Regulation 70A, out-of-turn promotion cannot be claimed as a matter of right. It is true that the case for out-of-turn promotion is required to be considered objectively and if the case falls within any of the categories mentioned in Regulation 70A. Once, the Committee takes a conscious decision on consideration of the case objectively in line with Regulation 70A and the process is found to be fair, just and equitable, thereafter, the Court's intervention is minimal. On considering the report of the Committee, it appears that case of the respondent for out-of-turn promotion was considered by the Committee objectively and the case of the respondent was considered taking into consideration all the relevant aspects on which out-of-turn promotion under Regulation 70A can be granted.

As observed hereinabove, out-of-turn promotion cannot be claimed as a matter of right and only in a case where the case

contd..

falls within the parameters of Regulation 70A, out-of-turn promotion can be granted. Under the circumstances, both, the learned Single Judge as well as the Division Bench of the High Court have erred in setting aside the report of the Committee and have materially erred in directing the State to grant out-of-turn promotion. The Division Bench of the High Court has observed that the learned Single Judge found the report of the Committee arbitrary. We fail to appreciate how the report can be said to be arbitrary when the Committee considered in detail all the parameters for out-of-turn promotion envisaged under Regulation 70A. Once, the Committee constituted takes a conscious decision objectively, thereafter, the Court would not be justified in interfering with such a decision unless it is found to be palpably arbitrary and/or perverse. The report submitted by the Committee in the present case cannot be said to be palpably arbitrary and/or perverse. Cogent reasons have been given by the Committee on every aspect, more particularly, Regulation 70A.

Now, so far as the parity claimed by the respondent which came to be accepted by the learned Single Judge is concerned, there cannot be any parity so far as claiming out-of-turn promotion is concerned. The facts differ from person to person and officer to officer and Act to Act. Therefore, in case of out-of-turn promotion, there cannot be any parity claimed.

In view of the above and for the reasons stated hereinabove, both, the learned Single Judge and Division Bench of the High Court

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have materially erred in directing the State to grant out-of-turn promotion. The impugned judgment and order(s) passed by the learned Single Judge and that of the Division Bench of the High Court are unsustainable and the same deserve to be quashed and set aside and are hereby quashed and set aside.

The present appeal is allowed to the aforesaid extent. No costs.

..... J.
(M.R. SHAH)

..... J.
(C.T. RAVIKUMAR)

New Delhi;
March 27, 2023.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 1040/2021

(Arising out of impugned final judgment and order dated 16-01-2020 in WA No. 740/2017 passed by the High Court of M.P Principal Seat at Jabalpur)

THE STATE OF MADHYA PRADESH & ANR.

Petitioner(s)

VERSUS

SANJAY SHUKLA

Respondent(s)

(IA No. 6126/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 83180/2021 - EXEMPTION FROM FILING O.T.

IA No. 6129/2021 - EXEMPTION FROM FILING O.T.

IA No. 83179/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 27-03-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH

HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s) Ms. Mrinal Gopal Elker, AOR
Mrs. Mrinal Elker Mazumdar, Adv.

For Respondent(s) Mr. Sumeer Sodhi, AOR
Mr. Devashish Tiwari, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s) shall stand disposed of.

(NEETU SACHDEVA)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
ASSISTANT REGISTRAR

(signed order is placed on the file)