

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 383 of 2009**

- S.K. Sharma S/o Shri R.N. Sharma, Aged about 58 years, R/o House No. 3 Pallavi Vihar, Rohani Puram, Raipur, District Raipur (C.G.)

---- **Petitioner****Versus**

1. State of Chhattisgarh, Through : Secretary, Department of Health & Family Welfare, D.K.S. Bhawan, Mantralaya, Raipur.
2. The Director, Health Services, Premises of Mantralaya, Old Nursing Hostel, Raipur (C.G.)

---- **Respondents**

For Petitioner	:	Shri Arvind Dubey, Advocate
For Respondent/State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****28/04/2015**

1. This petition has been preferred against the order dated 13-1-09 (Annexure P-19), passed by the State Government, in the department of Health & Family Welfare, cancelling petitioner's promotion order dated 27-8-08 (Annexure P-18), by which the petitioner was promoted on the post of Administrative Officer.
2. Learned counsel for the petitioner would raise a short issue of violations of principles of natural justice inasmuch as, concededly, the impugned order has been passed without giving any opportunity of hearing.

3. In the matter of **Bhagwan Shukla Vs. Union of India & others**¹, the Hon'ble Supreme Court has held thus:-

“The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter.”

4. Relying on the said decision, this Court in the matter of **Murlidhar Gautam Vs. State of M.P. (now CG) & others**² has held that any order canceling the promotion which visits with civil consequences cannot be passed without following the principles of natural justice.
5. Since before passing the impugned order, the respondent authorities have not followed principles of natural justice, the impugned order deserves to be quashed.
6. For the foregoing, the impugned order is quashed. The writ petition is allowed. However, it is made clear that if the petitioner was not entitled for promotion for any lawful reason, it would be open for the respondents to take necessary action, in accordance with law, after giving opportunity of hearing to the petitioner.

JUDGE

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¹ AIR 1994 SC 2480

² 2008 (3) CGLJ 288