

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 6112 of 2006**

- Smt. Usha Dhawade, aged about 33 years, W/o. Late Swaroop Ram Dhawade, Clerk, District Office Raipur, R/o Titurdih, Ward No.15, P.S. Mohan Nagar, Durg, District Durg (Chhattisgarh)

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

1. State of Chhattisgarh, Through: Secretary, Revenue Department, D.K.S. Bhawan, Raipur (Chhattisgarh)
2. Collector, Raipur, District Raipur (Chhattisgarh)
3. Rekhraj Bhoi, Aged about 40 years, Peon, District Collector Office, Raipur, District Raipur (Chhattisgarh)
4. Malikram Yadav, Aged about 42 years, Peon, Tahsil Office, Raipur, District Raipur (Chhattisgarh)

---- **Respondents**

For Petitioner	:	Shri VA Goverdhan, Advocate
For Respondents No.1 & 2/State	:	Shri Shashank Thakur, Government Advocate and Shri AV Shridhar, Panel Lawyer for the State.
For Respondents No.3 & 4	:	Shri Ali Asgar, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****20/04/2015**

1. In this petition under Article 226/227 of the Constitution of India, the petitioner is seeking quashment of the order dated 12-10-2006 (Anneuxre P-7), passed by respondent No.2, cancelling petitioner's promotion to the post of Assistant Grade-III, which was made earlier on 27-7-2006.
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. Although, in the case in hand, the petitioner was subsequently promoted on the post of Assistant Grade-III, during pendency of the writ petition, yet when the order under challenge has been passed in violation of principles of natural justice, the same deserves to be quashed. 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.
6. For the foregoing, the impugned order is quashed, subject, however to the liberty as aforesaid.

¹ AIR 1994 SC 2480

² 2008 (3) CGLJ 288