

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2781 of 2005**

- R.D. Diwan, aged about 44 years, S/o Shri K.N.D. Diwan, Deputy Collector Bilaspur, R/o B/12 Nehru Nagar Bilaspur, Tahsil & District Bilaspur (C.G.)

---- Petitioner**Versus**

1. State of Madhya Pradesh, Through Principal Secretary, General Administration Department Mantralaya, Vallabh Bhawan, Bhopal.
2. The Government of Madhya Pradesh, Through Principal Secretary, Revenue Department, Mantralaya, Vallabh Bhawan, Bhopal.
3. Shri D.S. Sharma, Deputy Collector, Collectorate, Indore, Tahsil & District Indore.

---- Respondents

For Petitioner	:	Shri Vinod Deshmukkh, Advocate.
For Respondent Nos.1 & 2:		Shri Siddharth Dubey, Deputy Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Order on Board****01.02.2019**

1. Heard learned counsel for the Petitioner and learned Deputy Government Advocate for the State.
2. Writ application was filed by the Petitioner seeking to shift his date of promotion on the post of Deputy Collector to the date when his so-called junior Shri D.S. Sharma was promoted to the post of Deputy Collector.
3. From the perusal of record it is apparent that promotion to the post of Deputy Collector was granted to the Shri D.S. Sharma by virtue of a judicial order passed by the Madhya Pradesh Administrative Tribunal (for short, 'Tribunal') in OA No.123 of 1993 vide order dated 13.09.1996. Since the benefit of promotion

was granted to Shri D.S. Sharma by virtue of the said judicial order which in turn had upset the seniority position of the present Petitioner, as is his assertion, he ought to have challenged the said order, more so atleast after the order of promotion to Mr. Sharma was notified in the official gazette on 20.06.1997.

4. Since the order of the Tribunal subsists and has not been assailed or interfered with by any person much less the present Petitioner, he cannot be indirectly granted a benefit which could not be otherwise available to him so long as the order Tribunal holds the ground.
5. Petitioner had been granted promotion but w.e.f. 04.09.1998 the prayer basically is notional promotion now through this writ application from the date Mr. Sharma was given the benefit. It cannot be allowed as it will amount to upturning the order of the Tribunal.
6. In the above facts and circumstances, writ application has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice