

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH
WRIT PETITION No.9716 of 2017
INDRAMANI PATEL
Versus
THE STATE OF MADHYA PRADESH AND OTHERS**

Appearance:

Shri Praveen Dubey and Sarthak Nema- Advocate for the petitioner.

Smt. Shradha Tiwari- Panel Lawyer for the respondent/State.

Reserved on : 15/05/2026

Delivered on : 15/06/2026

ORDER

This writ petition has been filed by the petitioner challenging the impugned order dated 28.12.2012 (Annexure P-1) passed by the respondents, whereby, his claim for an out-of-turn promotion under Regulation 70-A of the Madhya Pradesh Police Regulations has been rejected. The petitioner further seeks a direction against the respondents to grant him out-of-turn promotion to the post of Inspector with retrospective effect from the date of his entitlement, along with all consequential benefits.

2. The factual matrix culminating in the present dispute is that in 2004, the petitioner was posted as a Sub-Inspector and Station House Officer (SHO) at Police Station Simrol, District Indore. On the intervening night of 22.04.2004 at

approximately 11:15 PM, a grave exigency arose at Bharughat situated about 25 kilometres from Indore. A truck heavily loaded with bricks lost control and plunged into a deep valley. The truck was stopped by a tree leaving the heavy truck dangling over a 200-foot-deep gorge. Upon being informed, the petitioner immediately proceeded to the scene and attempted to coordinate a rescue for the truck's driver and helper who were in a highly precarious position and calling for help. When professional crane operators refused to descend into the gorge, the petitioner took it upon himself to climb down using a rope, risking his own life. The petitioner successfully rescued both individuals and secured the heavy truck to a tree with thick ropes. By preventing the truck from plunging further, the petitioner also averted potential harm to commuters traveling on the road below.

3. Due to his exceptional bravery, the petitioner was honoured by the local Sarpanch and received a shield and certificate of appreciation from the Collector, Indore on the Republic Day. The Narula Goods Transport Corporation, i.e., truck owner also expressed their appreciation for the petitioner's actions to the Superintendent of Police, Indore. Following the extraordinary gallantry, the petitioner received successive official recommendations for an out-of-turn promotion in accordance with Regulation 70-A of the Madhya Pradesh Police Regulations. The process commenced on 10.02.2005 when the Superintendent of Police, Indore formally recommended the case to the Deputy Inspector General of Police, Indore. Subsequently, on 15.02.2005, the Deputy Inspector General of

Police forwarded this recommendation to the Inspector General of Police, Indore Zone culminating in the Inspector General of Police officially referring the petitioner's case to the DIG (Selection).

4. Despite these unequivocal recommendations from the senior officers, the screening committee vide Resolution dated 31.03.2005 mechanically rejected the recommendation for out-of-turn promotion and instead resolved to grant the petitioner a cash reward of Rs. 5,000/-.

5. The petitioner assailed the Resolution in W.P. No. 2975 of 2011. By order dated 24.07.2012, this Court quashed the rejection orders on the ground that they were cryptic and non-speaking. This Court remanded the matter with a specific direction to the Screening Committee to reconsider the petitioner's case afresh in light of averments made in paragraph No. 3 of the Rejoinder filed in that petition. In purported compliance with the Court's direction, the respondents passed the impugned order dated 28.12.2012 again rejecting the claim of petitioner.

6. It is contended by the counsel for the petitioner that the impugned order demonstrates respondent No. 3's mechanical and arbitrary approach in rejecting the petitioner's rightful claim for an out-of-turn promotion under Regulation 70-A by classifying his extraordinary bravery as mere routine duty without any basis. Consequently, due to the high-handedness of the respondents, the petitioner was unjustly denied his out-of-turn promotion from the post of Sub-Inspector to Inspector. It is further contended by the counsel that the petitioner was

subsequently promoted to the post of Inspector through the regular channel and continues to discharge his duties to the utter satisfaction of the department.

7. The counsel for petitioner further argued that the impugned order suffers from the vice of total non-application of mind and blatant arbitrariness and the respondents have blown hot and cold in the same breath as by awarding a cash reward of Rs. 5,000/- for the very same incident, the State has unequivocally admitted the exceptional bravery of the petitioner but having recognized the act as brave and worthy of reward, the respondents have termed the exact same act merely a routine duty only to deny the statutory benefit of out-of-turn promotion.

8. The Ld. counsel for the petitioner further highlighted the catastrophic consequences that were averted by the brave act of petitioner. It is argued that the petitioner did not merely perform a rescue but he prevented an overloaded truck from crushing innocent commuters travelling on the lower road. The counsel thus submitted that descending a 200-foot gorge in the dark using a fragile rope undeniably surpasses what can reasonably be expected in the normal course of duty.

9. It is contended by the counsel for the petitioner that the respondents blatantly ignored the specific mandate of this Court to consider paragraph No. 3 of the earlier Rejoinder which was a specific direction of this Court in the earlier round of litigation. The Ld. counsel fairly clarified that the instances cited in the said paragraph where officers were granted out-of-turn promotions merely for securing

medals in typing or computer awareness competitions were not cited to claim parity as a matter of right. Rather, it was contended that these instances were cited strictly as examples to demonstrate the complete arbitrary shifting and irrational reasoning adopted by the screening committee. It is submitted that if the committee deems winning a typing competition as exceptional merit, its refusal to recognize the petitioner's life-threatening rescue mission as an act of bravery exposes a manifestly arbitrary decision-making process.

10. *Per contra*, the Ld. panel lawyer for the State supported the impugned order submitting that out-of-turn promotion cannot be claimed as a matter of right. It is argued by her that an exceptional provision under Regulation 70-A and the subjective satisfaction of the screening committee and the Director General of Police must be respected. It is argued that a police officer is duty bound to protect the life and property of citizens and performing this duty does not automatically entitle an officer to an out-of-turn promotion. Ld. panel lawyer places reliance on Order dated 27.03.2023 passed in the case of ***State of Madhya Pradesh v. Sanjay Shukla*** by Hon'ble Apex Court in **SLP (C) No. 1040/2021** to submit that the petitioner has relied on the judgment of Sanjay Shukla passed by this Court to claim parity, whereas, the order in case of Sanjay Shukla passed by this Court in WA no. 740/2017 has been quashed and set aside by Hon'ble Apex Court. Hence, for this reason, the petitioner is not entitled for any relief on the basis of parity.

11. Rebutting the submission of Ld. panel lawyer, the counsel for the petitioner argued that he is not claiming parity but even if the order of Hon'ble Apex Court is perused, the same benefits the petitioner as in the case before the Apex Court, the impugned order therein was based on committee's cogent and detailed reasons on the parameters of Regulation 70-A and for that reason, the Hon'ble Apex Court did not interfere with the findings of the committee therein. The counsel for the petitioner argued that in fact, the case of the petitioner falls within the exception carved out by the Hon'ble Apex Court, as the impugned order is palpably arbitrary and perverse because the parameters set out in Regulation 70-A has not been considered. Hence, it is prayed that impugned order be set aside and petitioner be granted benefit of out-of-turn promotion.

12. Heard the rival submissions and perused the record.

13. Before analyzing the merits of the petitioner's claim, it is imperative to examine the statutory framework and legislative intent of Regulation 70-A of the M.P. Police Regulations which states as:-

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

[Emphasis supplied]

14. Regulation 70-A operates as a special exception to the general rules of regular promotion. It explicitly provides that a Sub-Inspector may be granted an out-of-turn promotion to the rank of Inspector if he has "*distinguished himself in anti-dacoit operations, law and order situations of shooting competitions or in some other field of duty... or for meritorious/distinguished services*". The core intent and objective of this Regulation is to recognize, reward and permanently give incentive to such acts which are of extraordinary valour, extreme presence of mind and professional excellence. The Regulation demands an objective assessment. It requires the screening committee to meticulously evaluate whether an officer's conduct was merely a standard discharge of his everyday obligations or whether it crossed the threshold into an act of exceptional bravery or is merely a routine police duty.

15. Having examined the statutory intent behind Regulation 70-A, it is manifestly clear that the screening committee utterly failed to apply the correct

legal parameters to the petitioner's case. Dismissing the brave act of petitioner as just a regular part of the job completely overlooks the extreme danger involved. A routine police officer's response to such an incident would have been strictly confined to securing the perimeter, managing traffic and requisitioning specialized disaster response teams or professional equipment. The very fact that professional crane operators refused to descend into the gorge highlights the extreme danger involved. The petitioner went beyond the call of duty and took a life-threatening decision and by suspending himself on a mere rope in darkness over 200 feet to secure an overloaded truck and saving it from falling is an act of extraordinary bravery. Had the petitioner not intervened with such sheer presence of mind and courage, the truck would have inevitably plunged onto the active lower side of the road triggering a catastrophic mass disaster taking human life. Such a selfless, high-risk intervention flawlessly satisfies the threshold of conspicuous gallantry and exceptional merit contemplated under Regulation 70-A.

16. Furthermore, the satisfaction required under Regulation 70-A cannot be arbitrary. In the present case, the Superintendent of Police, the Deputy Inspector General of Police as well as the Inspector General of Police who were aware of the ground realities of the rescue unanimously recommended for out-of-turn promotion. The screening committee overturned these concurrent recommendations without recording any cogent, objective or legally sustainable reasons, relying solely on the flawed premise of 'routine duty'.

17. In administrative law, an order is deemed perverse if it suffers from an inherent contradiction or if no reasonable authority acting on the same material could arrive at such a conclusion. On the same set of facts, the respondent State found the petitioner's act brave enough to warrant a specific cash reward yet it concluded that it was merely a routine duty to deny him his statutory right of consideration for promotion. Furthermore, by not following the specific direction of this Court in W.P. No. 2975 of 2011 to objectively evaluate the claim in light of reference points established in paragraph no. 3 of the Rejoinder, the screening committee acted with manifest arbitrariness.

18. In W.P. No. 2975 of 2011, this Court specifically directed the respondent authorities to consider the instances mentioned in paragraph no. 3 of the Rejoinder. It is a settled law that parity cannot be claimed as a matter of right in out-of-turn promotions. However, these instances serve as vital reference points to evaluate the reasonableness of the committee's decision-making process. The record reveals that out-of-turn promotions were granted to police officers for securing medals in typing and computer awareness. While this Court does not sit in judgment over those specific grants, it finds it deeply irrational and arbitrary that the administration sets the threshold for exceptional merit at winning a typing competition yet completely dismisses an act of hanging over a 200-foot gorge to prevent a mass disaster as a routine duty. The said glaring inconsistency exposes the arbitrary standard applied by the committee to the petitioner's case. The

impugned order deals with the judicial directive in a purely superficial manner reflecting a clear non-application of mind that entirely vitiates the decision-making process.

19. The respondents cannot approbate and reprobate at the same time. On one hand, the Committee found the petitioner's act sufficiently courageous to warrant a special cash reward of Rs. 5,000/-. On the other hand, while considering Regulation 70-A, they downgraded the very same act to a routine discharge of duty. The State cannot be permitted to approbate the bravery for a cash reward and reprobate the same bravery to deny an out-of-turn promotion. For this reason, also, the findings arrived at by the committee are perverse.

20. The Ld. panel lawyer heavily placed reliance upon the recent judgment of the Hon'ble Supreme Court in *The State of Madhya Pradesh & Anr. vs. Sanjay Shukla* (Civil Appeal arising out of SLP(C) No. 1040/2021). In that case, the Supreme Court unequivocally held that out-of-turn promotion cannot be claimed as a matter of right nor can parity be claimed and the Court's intervention is minimal unless the committee's decision is found to be palpably arbitrary and/or perverse.

21. This Court is in conjunction with the ratio laid down by the Hon'ble Apex Court. However, rather than aiding the respondents, the judgment in *Sanjay Shukla (supra)* firmly bolsters the petitioner's case as the present impugned order squarely falls within the exception laid down by Supreme Court being palpably

arbitrary and perverse. In *Sanjay Shukla (supra)*, the Apex Court noted that the committee gave cogent and detailed reasons specifically addressing the parameters of Regulation 70-A. In contrast, the committee in the present case failed entirely to measure the act against the statutory parameters of conspicuous gallantry. As observed above, rewarding the act with cash for bravery while simultaneously dismissing it as routine is legally perverse. Furthermore, unlike in *Sanjay Shukla (supra)* where parity was claimed as a general right, the reference cases here were presented strictly to demonstrate the committee's irrational threshold and to comply with a specific remand order of this Court which the committee wilfully ignored. Therefore, the factual matrix is entirely distinguishable and the impugned order being palpably arbitrary and perverse warrants interference by this Court.

22. This Court is fully conscious of the settled legal proposition that the power of judicial review over administrative decisions particularly those involving the subjective satisfaction of a screening committee is inherently limited. A writ court does not sit as an appellate authority over the administrative body to substitute its own views. However, this limited scope does not mean that the administrative action is entirely immune from judicial scrutiny. In this context, reference to judgment of the Hon'ble Supreme Court in *Mohd. Aftab Mir v. State of J&K*, (2011) 11 SCC 82 is important where it has been held as under:-

“8. On behalf of the appellant it was urged that he was duly covered by Circular No. 14-GR of 1990 dated 6-3-1990 and his claim to out-

of-turn promotion was duly supported by the recommendations by the officers who were present when the Charar-e-Sharif incidents took place. It was submitted that the task performed by the appellant at Chadoora was no less significant than the task performed by the police personnel in Charar-e-Sharif itself and there was, therefore, no reason to discriminate between the appellant and the Station House Officer of Charar-e-Sharif, particularly when both had been recommended for out-of-turn promotion by the Superintendent of Police (Operations) and the Senior Superintendent of Police, Budgam District, Kashmir.

9. On the other hand, it was submitted on behalf of the respondent State that the case of the appellant for out-of-turn promotion had been duly considered by the authorities at the highest levels and a decision was taken, considering the situation at the ground level on 10-5-1995 and 11-5-1995 when Charar-e-Sharif Town was gutted. It was contended that the situation in Charar-e-Sharif Town itself and in Chadoora were different, in that, within Charar-e-Sharif Town the police were engaged with the militants directly as they had moved into the shrine itself, whereas in Chadoora the duty performed on the said two days was one of containment. Regarding the incident at Badipora, the same was also aimed against communal forces who were trying to burn down the temple, but the same also involved containment and not a direct and active confrontation with the militants. It was submitted that in the different circumstances, involving the SHO of Charar-e-Sharif and the appellant, it could not be said that the appellant had been discriminated against in the matter of out-of-turn promotion.

10. Having considered the submissions made on behalf of the parties and the materials on record, as also the judgments of the learned Single Judge and the Division Bench of the High Court, it does appear that the circumstances prevailing within the town of Charar-e-Sharif and in Chadoora were different during the disturbance and the decision to grant out-of-turn promotion to Sheikh Hamidulla, who was the Station House Officer, Charar-e-Sharif, during those fateful days was fully justified.

11. In the absence of any glaring discrepancy or bias in the decision-making process, ordinarily the Court does not normally take upon

itself the task of making a subjective assessment of an officer's performance in relation to matters of promotion and that too of the nature contemplated in the present case. However, at the same time, the Court is also entitled to consider the materials placed before it in order to arrive at a conclusion as to whether an injustice has been caused to the officer concerned. In the present case, both the Superintendent and Senior Superintendent of Police, Budgam District, had a chance to observe the appellant's performance on the ground on 10-5-1995 and 11-5-1995, when the incident was actually taking place and they have recommended that the appellant should be given out-of-turn promotion. The Director General of Police has also recognised the exemplary performance of the appellant. All such recommendations seemed to suggest that the performance of the appellant merited special consideration. Of course, the appellant has already been promoted to the post of Inspector on 19-8-2000, and the only question which now survives is whether such promotion should be given retrospective effect from the date on which Sheikh Hamidulla and Sub-Inspector Sonaullah were given such promotion.

12. While considering the appellant's claim for out-of-turn promotion or accelerated promotion in the writ petition filed by him, the learned Single Judge took special note of the condition, procedure and norms which provided that out-of-turn promotion would be considered only for consistently exceptional performance on the anti-militancy front. The learned Judge took note of the fact that except for two episodes, which, in any event, were performed in the usual course of duties, the same did not constitute any consistent exceptional performance on the part of the appellant which would entitle him to out-of-turn promotion. The said view was endorsed by the Division Bench while dismissing the letters patent appeal filed by the appellant herein.

13. Neither the learned Single Judge nor the Division Bench of the High Court appears to have given proper attention to Circular No. 14-GR of 1990 dated 6-3-1990, in relation to the recommendations which had been made by the Superintendent and the Senior Superintendent of Police, Budgam District. However, the final assessment for giving out-of-turn promotion lay with the Director General of Police and in

his judgment a cash reward of Rs. 2000 was felt to be appropriate in recognition of the exemplary services rendered by the appellant.

14. However, from the materials on record it is quite clear that the claim of the appellant is covered by the policy decision of the Government contained in Circular No. 14-GR of 1990 dated 6-3-1990, which provided an incentive to all government employees to give their best performance of duties in the service of the people and in meeting the challenge of the anti-national forces to disturb the law and order situation in the State. It is only subsequently that on 6-1-2000, that Government Order No. Home-3(P) of 2000 was published by the State in its Home Department regarding the procedure for out-of-turn promotion in the Police Department. It is in the said circular that it has been indicated that out-of-turn promotion could be considered only for consistently exceptional performance on the anti-militancy front and that the recommendations of the Director General of Police, along with the dossier of the employee concerned, along with other formalities and the extent of deviation from the seniority rule, would have to be placed before the Home Department Select Committee for consideration and recommendation which would then be placed before the Chief Minister with the prior approval of the Minister of State, Home Department.

15. The aforesaid Circular dated 6-1-2000, directly links out-of-turn promotion with the concept of consistently exceptional performance on the anti-militancy front, which did not figure in the earlier Circular No. 14-GR of 1990 dated 6-3-1990. Both the learned Single Judge and the Division Bench appear to have overlooked the difference in the two different circulars and the decision of the learned Single Judge is based on the later Circular dated 6-1-2000, while the appellant's claim is under the earlier Circular of 6-3-1990, in relation to incidents which had taken place prior to the promulgation of the Government Order dated 6-1-2000.

16. In fact, in the supplementary affidavit filed on behalf of the State of Jammu and Kashmir on 3-8-2010, the said two circulars have been referred to and it has been submitted that the Circular of 6-1-2000, had been issued in continuation and in addition to the Circular dated

6-3-1990. It has also been stated that since the Circular dated 6-1-2000 was issued subsequent to the circular issued in the year 1990, cases which have occurred after the issuance of the 2000 Circular would be subject to the same. It has been categorically stated that the case of the appellant belongs to the period prior to the issuance of the 2000 Circular and, therefore, he would be governed by the 1990 Circular. Of course, it has also been submitted that the said Circular dated 6-3-1990, does not confer any legal right on the appellant nor does it cast any obligation on the State of Jammu and Kashmir, since it was only an internal guideline which authorised the State Government to grant out-of-turn promotion in cases where the officials of Jammu and Kashmir Police display exemplary bravery and courage in confronting terrorists, militants and insurgents. In the said affidavit it has been sought to be justified that the case of the appellant did not merit out-of-turn promotion and he deserved a cash reward which had been duly awarded to him.

17. It is clear that the respondent State of Jammu and Kashmir is also alive to the fact that the claim of the appellant has to be considered in the light of the earlier Circular dated 6-3-1990, and not by the subsequent Circular dated 6-1-2000.

18. In these circumstances, we are of the view that the appellant's claim for out-of-turn promotion, on the basis of the facts disclosed, requires reconsideration in the light of the Circular dated 6-3-1990, and not the Circular dated 6-1-2000, as has been sought to be done in his case.

19. Accordingly, we set aside the orders passed by the learned Single Judge and the Division Bench of the High Court and direct that the case of the appellant be reconsidered by the respondents concerned in accordance with Circular No. 14-GR of 1990 dated 6-3-1990, for the purpose of granting retrospective effect to the promotion already granted to him on 19-8-2000, and if such retrospective effect is given, to consider such other benefits that he may, thereafter, become entitled to in accordance with law. The said exercise should be completed within three months from the date of communication of this order.”

[Emphasis supplied]

23. In paragraph 11 of the aforesaid judgment, the Apex Court categorically held that while the Court avoids subjective assessments in the absence of glaring bias, it is concurrently entitled to consider the materials placed before it in order to arrive at a conclusion as to whether an injustice has been caused to the officer concerned. The Hon'ble Supreme Court in **Mohd. Aftab Mir (supra)** found merit in judicial interference specifically because the field officers who had the chance to observe the performance on the ground had strongly recommended the out-of-turn promotion yet the higher authority bypassed it by merely granting a cash reward. Even if the factual matrix of the present case is taken, here too, the Superintendent of Police, Deputy Inspector General of Police and Inspector General of Police who were well versed with the topography of Bharughat and evaluated the petitioner's performance on the ground unanimously recommended him for promotion. The screening committee's decision to bypass this ground level assessment to merely award a cash reward of Rs. 5,000/- while terming the act as routine creates the exact type of glaring discrepancy and resultant injustice that the Hon'ble Supreme Court observed and reached to a conclusion that judicial interference is required.

24. Furthermore, this Court finds it profitable to refer to the judgment of a Coordinate Bench in **Niranjan Sharma vs. State of M.P. & Others (W.P. No. 14141 of 2012)** which has been relied on by the petitioner. In that case, an Inspector was arbitrarily denied out-of-turn promotion despite recommendations

from superior authorities. The Coordinate Bench while quashing the cryptic rejection orders categorically held that when a claim is denied arbitrarily, the Court can directly mandate the grant of out-of-turn promotion with retrospective effect rather than merely remanding the matter. The said judgment was duly affirmed by the Division Bench in *State of M.P. v. Niranjan Sharma, W.A. No. 600/2017*. As the petitioner is agitating his claim since 2005, this Court is of the view that in place of mechanically remanding the matter back to the authorities after a long period of 20 years and also considering the fact that a significant healthy part of petitioner's service career has been spent in litigation, it would be appropriate and proper for this Court to put a quietus to the litigation as it would be a travesty of justice and an exercise in futility to remand the matter particularly because the respondents have already failed to objectively evaluate the case of petitioner despite an earlier remand order dated 24.07.2012 in W.P. No. 2975/2011.

25. Considering the aforesaid facts and circumstances of the case, this Court deems it appropriate to dispose of instant petition by issuing following directions which are as under: -

- i. The impugned order dated 28.12.2012 (Annexure P-1) is hereby quashed and set aside.
- ii. The respondents are directed to grant the benefit of out-of-turn promotion notionally to the petitioner to the post of Inspector retrospectively from the date of recommendation made by SP,

Indore dated 10.02.2005 alongwith all consequential benefits including consideration of petitioner for promotion to the next higher post. However, it is made clear that the petitioner shall not be eligible for arrears of salary (back-wages) for the period he did not actually officiate on the post of Inspector.

- iii. The petitioner shall be entitled to the fixation of his seniority on the post of Inspector from such retrospective date.
- iv. The petitioner's salary shall be fixed notionally from 10.02.2005 for the purpose of assessing future increments.

26. The aforesaid exercise be carried out by the respondents within a period of 60 days from the date of receipt of certified copy of the order passed today.

27. With the aforesaid directions this writ petition stands allowed and **disposed of.**

28. Certified copy as per rules.

(VIVEK KUMAR SINGH)
JUDGE