

# The High Court Of Madhya Pradesh

WP No. 23654 of 2021

(RADHIKA THAKUR Vs THE STATE OF MADHYA PRADESH AND OTHERS)

**Jabalpur, Dated : 29-10-2021**

Shri Prabhakar Singh, learned counsel for petitioner.

Shri Kamlesh Dwivedi, learned P.L. for respondent/State.

Heard.

Petitioner by the present petition filed under Article 226 prays for following relief :

*"(i) To issue a direction to respondents to promote her on the post of ADPO since she became eligible and pay entire arrears with interest.*

*(ii) To grant any other relief as deem fit and proper looking to the facts and circumstances of the case."*

The claim for direction for promotion can mature only when petitioner demonstrates that somebody junior to her in the same cadre has been promoted ignoring the petitioner's claim for promotion or in case the statutory rule governing the filed of promotion mandatorily provides for promotion after rendering a specific period of service.

Counsel for petitioner is unable to satisfy this Court on the above said two aspects.

Learned counsel for petitioner states that there are several posts lying vacant in the cadre of ADPO which are not being filled up by the State.

The employer has a discretion to fill or not to fill a particular vacancy and the same cannot be questioned by invoking the power of judicial review of the Court unless a justiciable right is available to the petitioner.

In view of the above, this Court is of the considered view that this petition is premature and, therefore, the same is **dismissed** with liberty to petitioner to revisit the Court in case on arising out of legitimate cause.

No cost.

**(SHEEL NAGU)  
JUDGE**

Biswal