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WP-25331-2019

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 21<sup>st</sup> OF OCTOBER, 2024WRIT PETITION No. 25331 of 2019*GURNAM SINGH**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*WRIT PETITION No. 25329 of 2019*MUZAFFAR KHAN**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*WRIT PETITION No. 27674 of 2019*HARI SINGHY VERMA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri S.K. Singh, learned counsel for the petitioner.*

*Shri Manhar Dixit, learned Panel Lawyer for the respondent/State.*

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ORDER

Challenge is made in the present petitions to withdrawal of benefits of 1st and 2nd kramonnati to the petitioners and the consequential recovery orders. For the sake of convenience, the reference to facts and documents is taken from WP No.25329/2019.

2. In the present case by order Annex.P/4 dated 08/02/2019 the pay of the petitioners has been refixed by withdrawing the benefits of kramonnati to the petitioner on the ground that as per the objections raised by Joint Director



Treasury and Accounts, the employees in Work Charged and Contingency Paid Establishment are not entitled to get benefits of kramonnati and since the petitioner is a Driver in Work Charged Establishment, therefore, he is not entitled to get benefit of kramonnati and hence, the benefit of kramonnati has been withdrawn and pay of the petitioner has been refixed.

3. By the order Annex.P/5 as a consequence of refixation of pay, the recovery has been initiated against the petitioner to the tune of Rs.1,64,226/-. The amount of recovery varies in different cases.

4. Learned counsel for the petitioners has made twofold submissions. Firstly that the reasons assigned that work charged employees is not entitled to get benefit of kramonnati is bad in law in view of judgment of this Court in the case of **Teju Lal Yadav Vs. State of Madhya Pradesh and others** reported in **ILR (2009) MP 1326**. So also judgment in the case of **K.L. Asre Vs. State (WP(s) No.1070/2003)**.

5. Secondly, it is argued that even if the situation was to be contrary then also there was no suppression or misrepresentation on part of the petitioner in getting the said benefits and the matter relates only to interpretation of the rules, therefore, the recovery cannot be enforced against the petitioners in terms of judgment of Supreme Court in the case of **State of Punjab & Others Vs. Rafiq Masih & Others** reported in **(2015) 4 SCC 334** and full Bench of this Court in the case of **State of Madhya Pradesh & Others Vs. Jagdish Prasad Dubey & Others (WA No.815/2017)**.

6. Per contra, learned counsel for the State has supported the order on the ground that work charged employees are not entitled to get benefit of kramonnati. Reliance is placed on judgment of Supreme Court in the case of



*Ram Naresh Rawat vs. Ashwini Ray and others* reported in (2017) 3 SCC 436.

7. Upon hearing the counsel for the rival parties it is seen that reliance on the judgment in the case of Ram Naresh Rawat (supra) is utterly misplaced because that judgment relates to the fixation of pay of classified employees. Classification is a concept under Industrial Law and flows from MP Industrial Employment Standing Order Act, 1963 and the Rules framed thereunder. The aforesaid case relates to employees classified on the particular post. However, in the present case the petitioner is a work charged employee and it is well settled that work charged employees get regular pay scale and also get regular pay revision as announced from time to time for work charged employees. The service conditions are governed under the specific service rules framed by the State.

8. The aspect of applicability of scheme of kramonnati and financial upgradation to work charged employees was raised before this Court in the case of Teju Lal Yadav (Supra) so also in the case of K.L. Asre (supra). In the case of K.L. Asre, this Court has held as under:

*“6. Apart from the above, it is seen that the petitioner is working in the Polytechnic College and is said to be a contingency paid employee. Under the M.P. Education Department (Technical Branch) Contingency Paid Employees Recruitment and Conditions of Service Rules, 1978, a contingency paid employee is defined under Rule 2(b) to mean a person employed for full time in an office or establishment and who is paid on monthly basis and whose pay is charged to “Office Contingencies” but it excludes such of the employees who are employed for certain periods only in the year. In the aforesaid Rules of 1978, the categorization of employees is done under Rule-6 and the employees are classified into two categories i.e. permanent and temporary. Under sub-rule 2 of Rule-6, it is provided that on*



*completion of 15 years of continuous service the contingency paid employees shall be eligible for attaining the status of permanent work charged or contingency paid employee. The similar provisions are made in the M.P. (Work Charged and Contingency Paid Employees) Pension Rules, 1979 wherein the permanent employee is defined under Rule 2(c) to mean a contingency paid employee or a work charged employee who has completed 15 years of service or more on or after 1st January 1974.*

*7. The complete reading of these Rules indicates that a contingency paid employee attaining the permanent status and a work charged employee attaining the permanent status are treated to be similar in all respects for the purpose of granting them pension and revision of pay scales under the MP Work Charged and Contingency Paid Employees Revision of Pay Rules, 1990 and under the M.P. (Work Charged and Contingency Paid Employees) Pension Rules, 1979.*

*8. Considering the fact that under the statutory rules also the contingency paid and the work charged employees are considered to be forming a common class. There is no reason why the benefit of time bound promotion which is extended to the work charged employees and why the judgment rendered in case of K.L. Asre (supra) be not made applicable in the case of the present employee also who has attained the status of a permanent work charged or contingency paid employees and entitled to various benefits in the matter of revision of pay and pension in identical manner.*

*9. A perusal of the Policy as contained in Annexure P/3 further indicates that even though the policy speaks about granting krammonati under the scheme to employees in the regular establishment, but by Clause (13) and (14) of the Scheme, the Government has extended the benefit of Krammonati to vehicle drivers working in the work charged and contingency paid establishment. A perusal of Clauses (13) and (14) clearly indicates that the benefit of krammonati after completing 12 years and 24 years of service is made applicable to employees in the work charged and contingency paid establishment.*

*10. As far as work charged and contingency paid employees are concerned, their service conditions are governed by the same rules namely the Work Charged and Contingency Paid Employees Recruitment Rules, applicable to various departments and the work Charged and Contingency Paid Employees Pension Rules 1979 and the Work Charged and Contingency Paid Employees Revision of Pay Rules, 1990. For the purpose of recruitment, appointment, pay revision and grant of pensionary benefits, the work charged and contingency paid employees constitute a*



*common class and their terms and conditions of employment are governed by identical set of rules. It is, therefore, clear that for the purpose of recruitment, appointment, grant of pension and revision of pay scales, work charged and contingency paid employees are treated similarly and a separate set of rules, different from the one applicable in the regular establishment, govern their terms and conditions of employment. The work charged and contingency paid employees constitute a common class and therefore, this class of employees are entitled to similar treatment in all respects, deviation being permissible on justifiable grounds and reasons. In the present case, the benefit of time bound promotion under the scheme- Annexure P/3 and P/4 is extended to vehicle drivers working in the work charged and contingency paid establishment, as per the policy itself.*

*11. The principles laid down in the case of Shri K.L. Asre (supra) has been made applicable to time keepers, working work charged and contingency paid establishment. If time keepers and drivers in the work charged and contingency paid establishment are entitled to promotion under the time bound scheme, there is no reason as to why the said benefit be not extended to other employees constituting the same class in the work charged and contingency paid establishment. The policy is made applicable to drivers of his establishment and the reason for not making the said policy applicable to other categories of the work charged and contingency paid establishment is not indicated in the return. No reason is given as to why a different policy is being adopted in the case of other employees in the work charged and contingency paid establishment and the benefit granted to drivers in the said establishment is not extended to other employees like the petitioner. Respondents being a "State" has to give similar benefit to employees similarly situated and forming a common class. They may be justified in granting some additional benefit to some of the employees in comparison to others, but the justification and reasons for such a classification has to meet the test of Article 14 of the Constitution and the decision has to be reasonable, fair and justified by cogent reasons and relevant considerations. Except for contending that the policy is not applicable to employees working in the work charged and contingency paid establishment, no justification is forthcoming from the respondents with regard to further classification amongst the employees working in the work charged and contingency paid establishment with regard to implementation of the Policy -Annexure P-3 and P-4. When the employees working in the work charged and contingency paid establishment constitute a common class, all benefits which are*



*extended to one set of employees namely drivers as per the policy and the timekeepers in the light of the judgment in the case of K.L. Asre (supra) has to be granted by the respondents to the present petitioners also. In the absence of proper justification for adopting a different policy and cogent reason given justifying the reasonableness in the classification and differentiation done fulfilling the requirement of Article 14 of the Constitution, discrimination cannot be permitted. Parity in employment is required to be maintained and therefore, keeping in view the circumstances and the action of the respondents in adopting a pick and choose method violative of Article 14 of the Constitution in the case of employees who form a homogeneous class the action discriminatory in nature cannot be upheld by this Court.*

*12. Keeping in view the aforesaid, the respondents are directed to extend the benefit of promotion in accordance with the aforesaid scheme to the petitioner and after evaluating his case in accordance with the requirements of the said scheme, grant benefit to the petitioner. In case the petitioner is found entitled then necessary orders in this regard be passed within a period of three months. 13. The petition is accordingly allowed and disposed of.”*

9. Further in the case of **Sunil Barve Vs. State of M.P. & others (WP No.19301/2018)**, the Coordinate Bench at Indore has granted similar benefits of kramonnati to the employees working in work charged establishment.

10. In view of such facts, which could not be disputed by Shri Manhar Dixit and there is no material available on record to show that the said order has been set-aside in the Writ Appeal, applying the ratio of the law laid down in the case of **Sunil Barve (supra)** petitioners are entitled for kramonnati and accordingly, benefits be calculated in favour of the petitioners.

11. Impugned order of re-fixation and recovery are hereby quashed.

12. In the above terms, all these writ petitions are **allowed and disposed of.**

(VIVEK JAIN)  
JUDGE



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