

**(2018) 04 MP CK 0068**  
**In the Madhya Pradesh High Court**  
**Case No : W.P. No.112 OF 2017**

Anand Rao Karle & Ors

APPELLANT

Vs

State Of Madhya Pradesh & Ors

RESPONDENT

**Date of Decision :** 11-04-2018

**Acts Referred:**

Constitution of India — Article 14

**Citation :** (2018) 04 MP CK 0068

**Hon'ble Judges :** S.C. SHARMA, J

**Bench :** Single Bench

**Advocate :** K.C. Raikwar, Aniruddh Waghmare

**Final Decision :** Allowed

## Judgement

The petitioners before this Court are serving on the post of Store Clerk, Time Keeper, Lab Assistant, Lineman, Meter Reader, Telephone Attendant,

Mason Grade-II etc. under the Work Charged Contingency Paid Establishment, have filed this present petition for grant of kramonnati on account of

executive instruction issued by the State Government dated 17.03.1999/19.04.1999 and 27/29.03.2001.

The petitioners' contention is that the controversy in the present case has been concluded by the judgment delivered in the case of Tejalal Yadav

v/s State of M.P. & Ors reported in 2010 M.P.L.S.R. 40 and it has been prayed that the respondents be directed to grant benefits to the petitioners,

who are work charged contingency paid employee, as it has been extended to their counter parts working in the same department.

On the other hand, reply has been filed in the matter and stand of the State Government is that the petitioners are not entitled for grant of karmonnati,

as the service conditions are governed under the rules known as Work Charge

Contingency Paid Establishment Recruitment Rules, 2012. The

respondents have also stated that they are entitled for the benefits flowing out of the statutory provisions and not for kramonnati.

This Court in the case of *Tejula v/s State of Madhya Pradesh* (supra) has dealt with a similar controversy. This Court in the aforesaid case in

paragraphs-4 to 12 has held as under:-

“Learned counsel for the petitioner placing reliance on the judgment rendered by the Bench of this Court in Writ Petition (S) No.1070/2003, *K.L.*

*Asre v/s State*, decided on 07.11.2005, submits that when the work charged establishment Drivers and the Time Keepers in the Public Works

Department are held entitled for promotion under the aforesaid scheme, the petitioner, who is a contingency paid employee, is also entitled to the same benefits.

“5. In case of *K.L. Asre* (supra), the benefit of time bound promotion is extended to the employees of Work Charge Establishment in the Public

Works Department and it is so held by the learned Judge in paragraph no.5 of the aforesaid judgment, which reads as under: “On bare perusal of

Annexure P/7 it is gathered that the respondents are giving promotion under the Time Bound Promotion Scheme to the Drivers serving under Work

charge Establishment. When the promotion under the Time Bound Promotion Scheme is being given to the Drivers of the Work Charge Establishment,

then why the petitioner should not be benefited in the same manner. The Supreme Court in the case of *Raghunath Prasad Singh Vs. Secretary, Home*

(Police) Department Government of Bihar and others. AIR 1988 SC 1033 in para 4 has held as under:“4. Before we part with the appeal, we

would like to take notice of another aspect. In course of hearing of the appeal, to a query made by us, learned counsel for the appellant indicate the

reason as to why the appellant was anxious to switch over to the general cadre. He relied upon two or three communications which are a part of the

record where it has been indicated that there is no promotional opportunity available in the wireless organisation. Reasonable promotional opportunities

should be available in every wing of public service. That generates efficiency in service and fosters the appropriate attitude to grow for achieving

excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly. We

would, therefore, direct the State of Bihar to provide at least two promotional opportunities to the officers of the State Police in the wireless

organisation within six months from today by appropriate amendments of Rules. In case the State of Bihar fails to comply, with this direction, it should,

within two months thereafter, give a fresh opportunity to personnel in the Police wireless organisation to exercise option to revert to the general cadre

and that benefit should be extended to everyone in the wireless organisation.â??

The same principle has been reiterated in the case of Dr. Ms. O.Z. Hussain Vs. Union of India and others AIR 1990 SC 311.Â This Court in the

case of Smt. Kamla Devi Tiwari Vs. The State of M.P. and another (W.P. No.9368/2003) decided on 05/01/2005 has held that according to the

decision of Raghunath Prasad Singh (Supra) the employees are entitled for promotion and the respondents were directed to extend the said benefit in

terms of the decision of Supreme Court in Raghunath Prasad Singh (Supra).

6. Since the Time Bound Promotion scheme is applicable to the Drivers serving under the Work Charge Establishment the view of this Court is that

the same is also applicable to the petitioner who was serving on the post of Time Keeper and was retired from the said post.â??

(Emphasis supplied)

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 â??Office Contingenciesâ? 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 employees. 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 1<sup>st</sup> 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

M.P. 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 for 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 Kramonnati under the

scheme to employees in the regular establishment, but by clauses (13) and (14) of the Scheme, the Government has extended the benefit of

Kramonnati 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 Kramonnati after completing 12 years and 24 years of service is made applicable to the 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 Work

Charge Contingency Paid Establishment Recruitment Rules applicable to various departments and the Work Charged Contingency Paid Employees

Pension Rules, 1979 and the Work Charged Contingency Paid Employees Revision of Pay Rules, 1990. For the purposes 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 respected 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 driver working in the work charged 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 in the work charged contingency paid establishment, if time keepers and driver in the work charged 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 driver of this establishment and the reasons for not making the said policy applicable to other categories of the work charged 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 contingency paid establishment and the benefit granted to drivers in the said establishment is not extended to other employees like petitioner. Respondent being a State 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 consideration. Except for contending that the Policy is not applicable to employees working in the work charged contingency paid establishment, no justification forthcoming from the respondents with regard to further classification among the employees working in the work charged contingency paid establishment with regard to implementation of the Policy-Annexure P-3 and P-4. When the employees working in the work

charged 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 time keepers 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 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 homogenous 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 benefits to the petitioner. In case the petitioner is found entitled then necessary orders in this regard be passed within a period of 3 months.â??

This Court in the aforesaid case in respect of identically placed persons, who were also under the work charged contingency paid establishment, has granted them the benefits of kramonnati. Not only this, in the case of the same department i.e. Department of Public Health Engineering in W.P. No.876/2015 decided on 23.02.2015, the respondent department has extended same benefits, which has been granted to Tejalal and also the petitioner therein.

Thereafter, contempt petition was preferred i.e. Conc No.13/2016 and this Court by an order dated 14.02.2018 has directed the respondents to implement the judgment delivered in the case of Tejalal (supra) to identically placed persons (sixteen employees). The respondents have granted the benefits to sixteen such employees by an order dated 16.03.2018.

In light of the aforesaid, as the respondents have extended the benefits in the same department to the identically placed employees, the present petitioners are also entitled for grant of kramonnati.

Resultantly, the present petition stands allowed. The petitioners shall be entitled

for the same benefits, which has been extended in the case of Tejulal Yadav (supra) and to other employees, who were petitioner in W.P. No.876/2015. The exercise of granting benefits to the petitioners be concluded within a period of four months from the date of receipt of certified copy of this order.

Certified copy as per rules.