
(2014) 07 MP CK 0269
In the Madhya Pradesh High Court
Case No : W.P. No. 913/11

Kamlini Gupta

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 04-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 07 MP CK 0269

Hon'ble Judges : P.K. Jaiswal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

P.K. Jaiswal, J.—Dr. R.K. Gupta husband of the petitioner is present in person. An open court statement has been made by him that he has been authorized by his wife to appear and argue the matter on her behalf.

2. Written authorization is taken on record.

3. By this writ petition under Article 226 of the Constitution of India the petitioner is challenging the arbitrary and illegal action of the respondent whereby she is not given benefit of 6th pay commission and reduced her pay scale from Rs. 9300/- to Rs. 9100/- and further order of recovery has been issued to recover the excess amount which has been received by the petitioner earlier which is against the Principle of natural justice.

4. Brief facts of the case are that petitioner was appointed as lecturer on 13.7.1985 and after completion of 12 years of service on 13.7.1997, she was granted Time Bound Kramonnati on 14.12.1999.

5. As per instructions of Commissioner, Public Instructions, Bhopal and in pursuance to the aforesaid instructions, petitioner was granted benefit of Kramonnati from 13.7.1997.

6. It is further submitted that when the matter was sent to Joint Director,

Treasure and Accounts, Gwalior an objection was made not to pay the amount Rs. 17,300 + Rs. 4200/- and further instructions are made to recover the excess amount from the petitioner w.e.f. 13.7.1997. In pursuance to the objection made by the Joint Director, Treasury and Accounts, Gwalior, the petitioner was directed on 11.10.2010 for depositing excess amount as received by him earlier.

7. It is submitted that the petitioner was granted benefit of Kramonnati w.e.f. 13.7.1997. It is further submitted that she never suppressed any fact and therefore in view of law laid down by Supreme Court in the case of Shyam Babu Verma and Others Vs. Union of India (UOI) and Others, , and in the case of Union of India v. Bhanwar law Mundan reported in 2013 (12) SCC 433, no recovery can be made from her. It is also submitted that benefit was granted as per Rule 22(A)(ii) of Fundamental Rules of Fixation and the respondents have no power to withdraw it retrospectively. It is further submitted that in identical circumstances, the Principal Seat at Jabalpur as well as Indore Bench quashed the recovery order and directed the authorities to grant benefit to the petitioner therein. It is further pointed out that in identical circumstances the same benefit was granted to one Sheikh Vasiullah who is a lecturer in District Institute of Training and Education where the petitioner is working. In the case of Vasiullah, he was appointed on 25.11.1985 and after completion of 12 years of service the benefit of pay scale was granted on 25.11.1997. In support of the aforesaid he placed service record of Shri Sheikh Vasiullah.

8. I have perused the return of the respondents/State. From the return it is not in dispute that prior to passing the impugned recovery, no show cause notice was issued to the petitioner, the said order was passed in violation to the principle of natural justice and therefore the same deserves to be quashed. Accordingly order dated 11.10.2011 and note appended to her service book by which benefit was granted w.e.f. 13.7.1997 is quashed meaning thereby the petitioner is entitled for benefit of time bound Kramonnati w.e.f. 13.7.1997 as granted in the case of similarly situated person like Sheikh Vasiullah (supra) who has been granted similar benefit.

9. With the aforesaid, the writ petition is allowed and disposed of. No cost.