

(2010) 03 MP CK 0030

In the Madhya Pradesh High Court

Case No : Writ Petition (S) No. 5774 of 2009

Nathulal Verma

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 29-03-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) ILR (MP) 1721 : (2010) 4 MPHT 466

Hon'ble Judges : S.S. Kemkar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shantanu Kemkar, J.—Being aggrieved by the order dated 10-8-2009 (Annexure P-1) passed by the third Respondent Principal, Government Nutan Higher Secondary School No. 3 Indore issued on the basis of the objection raised by the fourth Respondent Joint Director, Treasury and Accounts Department, Indore withdrawing the benefit of second Kramonnati extended to the Petitioner and ordering for recovery of the excess payment made to him the Petitioner has filed this petition under Article 226 of the Constitution of India.

2. Briefly stated the Petitioner was appointed on the post of Lower Division Clerk vide order dated 3-4-1976 (Annexure P-2) in the pay scale of Rs. 169-300/- (revised Rs. 950-1530/-). He was promoted to the post of Upper Division Clerk vide order dated 11-3-1982 (Annexure P-3) in the pay scale of Rs. 195-330/- revised Rs. 1150-1800 further revised Rs. 1200- 2040 as per report of Sinhdeo Committee. Thereafter, vide order dated 4-12-1995 he was promoted to the post of Accountant in the same pay scale which was drawing as an Upper Division Clerk.

3. In pursuance to the recommendations of the Departmental Promotion Committee the second Respondent District Education Officer, Indore vide order dated 28-2-2009 (Annexure P-5) sanctioned the benefit of second Kramonnati

payable to him on the basis of Kramonnati Policy of the State Government w.e.f. 5-4-2000 the date on which he had completed 24 years of service and fixed him in the pay scale of Rs. 4500- 7000/-. As a consequence of the said order dated 28-2-2009 the Petitioner's pay was fixed w.e.f. 5-4-2000, vide order dated 4-4-2009 (Annexure P-6).

4. When the matter stood thus, on the basis of objection raised by the fourth Respondent, the third Respondent issued the impugned order dated 10-8-2009 (Annexure P-1) thereby ordered for withdrawal of the benefit of second Kramonnati and also ordered for recovery of excess payment made to the Petitioner. Aggrieved the Petitioner has filed this petition.

5. According to the Petitioner, the impugned order is illegal and is violative of the principles of natural justice. He submits that in his service tenure the higher pay scale was extended to him only once when he was promoted vide order dated 11-3-1982 from the post of LDC to the post of UDC. He also submits that though vide order dated 4-12-1995 he was promoted as Accountant but in the same pay scale of UDC, which he was getting prior to his promotion. Therefore, according to him the objection of the fourth Respondent was baseless and contrary to the Kramonnati Policy and the order of cancellation of the benefit is liable to be quashed.

6. In reply, the Respondents did not dispute that the Petitioner was firstly promoted from the post of LDC to the post of UDC vide order dated 11-3-1982 and at that time only he was granted the benefit of higher pay scale. They have admitted that the Petitioner has been promoted to the post of Accountant in the same pay scale as he was getting while he was UDC. Thus, the benefit of higher pay scale was extended only once on 11-3-1982 when he was promoted as UDC.

7. In the circumstances, when admittedly on promotion as Accountant the Petitioner's pay scale remained the same as he was getting as a UDC, he could not have been denied the benefit of the Kramonnati Policy.

8. The Petitioner in order to clear the position that he was promoted on the post of Accountant in the same pay scale has placed reliance on the amendment in M.P. Pay Revision Rules, 1990 on the basis of recommendation of Sinhdeo Committee by which the pay of UDC was revised from Rs. 1150-1800/- to 1200-2040/- which he was getting when he was promoted to the post of Accountant in the pay scale of Rs. 1200-2040/-.

9. Thus, in view of the aforesaid I find that the Petitioner was rightly extended the benefit of second Kramonnati and cancellation of the same vide order dated 10-8-2009 (Annexure P-1) is illegal and is violative of Clause 2 (Kha) of the Kramonnati Policy dated 19-4-1999.

10. Accordingly, the petition is allowed. The impugned order (Annexure P-1) deserves to be and is hereby quashed. No order as to the costs.