
(2019) 11 MP CK 0186
In the Madhya Pradesh High Court
Case No : Writ Petition No. 24312 Of 2019

Pachubai Atila

APPELLANT

Vs

State Of Madhya Pradesh And Ors

RESPONDENT

Date of Decision : 21-11-2019

Acts Referred:

Constitution Of India, 1950 — Article 14
Madhya Pradesh Education Department (Technical Branch) Contingency Paid
Employees Recruitment And Conditions Of Service Rules, 1978 — Rule 2(b), 2(c), 6, 6(2)

Citation : (2019) 11 MP CK 0186

Hon'ble Judges : S.C. Sharma, J

Bench : Single Bench

Advocate : Shashank Patwari, Saurabh Shrivastava

Final Decision : Disposed Of

Judgement

This Writ Petition has been filed by the petitioner claiming the kramonnat pay scale in terms of the circulars of the State dated 17/3/1999 and 19/4/1999. The case of the petitioner is that he was appointed as Rasoian and regular pay scale was allowed w.e.f. 26/6/1991 and he is in the work charged and contingency paid establishment and in terms of various judgments of this Court he is entitled for kramonnat pay scale.

Having heard the learned counsel for the parties and on perusal of record, it is found that the issue involved in the matter is squarely covered by the judgment of this Court in the matter of Teju Lal Yadav Vs. State of MP & Ors reported in ILR (2009) MP 1326 wherein this Court in the light of the same circulars has considered the issue of grant of krammonat pay scale to the work charged and contingency paid employee and on placing reliance upon the earlier judgment in the matter of K. L. Asre Vs. State passed on 7/11/2005 in Writ Petition(s) 1070/2003 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 this 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 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 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."

Since the issue involved in the present case is covered in favour of the petitioner by the above judgment of this Court, therefore, the Writ Petition is disposed of on the same terms and the respondents are directed to extend the same benefit to the petitioner which has been extended to the similarly situated contingency paid employees in the above judgment. Let the said exercise be completed within a period of 6 months from the date of receipt of certified copy of this order.

Certified copy, as per Rules.