
(2014) 09 MP CK 0157
In the Madhya Pradesh High Court
Case No : WP No. 4441/2012

Ramesh Pithwe

APPELLANT

Vs

Principal Secretary State of M.P.

RESPONDENT

Date of Decision : 29-09-2014

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2014) 09 MP CK 0157

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : V.K. Patvari, Learned Counsel, Advocate for the Appellant; Neelam Abhayankar, Learned Counsel, Advocate for the Respondent

Judgement

Prakash Shrivastava, J.—Heard finally with consent.

2. This writ petition has been filed by the petitioner challenging the order dated 21/2/2012 by which the benefit of the first kramonnati which was granted to the petitioner has been withdrawn.

3. In brief, the case of the petitioner is that he was initially appointed on the post of Peon on contingency basis by order dated 16/4/1983 and he was granted the regular pay scale of Rs.725-900 with effect from 1/4/1987. The petitioner was granted the benefit of the first kramonnati by order dated 28/10/2005 on completion of 12 years with effect from 19/4/1999. The respondents thereafter have issued the impugned order dated 21/2/2012 Annexure P/1 withdrawing the said benefit and seeking to recover the benefit of the first kramonnati granted with effect from 19/4/1999.

4. Learned counsel for petitioner submits that the issue involved in the present matter is squarely covered by the judgment of this Court in the matter of Teju Lal Yadav Vs. 2 State of MP & Others reported in ILR (2009) MP 1326.

5. Learned counsel for State has not disputed the said aspect of the matter.

6. This Court in the matter of Teju Lal Yadav (supra) has held as under:-

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 indicated that even though the policy speaks about granting Krammanoti 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 Krammanoti to vehicle drivers working in the work charged and contingency paid establishment. A perusal of Clauses (13) and (14) clearly indicated that the benefit of Krammanoti after completing 12 years and 24 years of service is made applicable to 3 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/- and P/4, is extended to vehicle drivers working in the wok charged and contingency paid establishment, 4 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 and contingency paid establishment. If time keepers and drivers 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 drivers of this establishment and the reason for not making the said

policy applicable to other categories of the work charge 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 consideration. Except for contending that the 5 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 homogenous class, the action discriminatory in nature cannot be upheld by this Court".

7. Learned counsel for petitioner has further pointed out that the Time Keepers of Public Health Engineering 6 Department have been granted the same benefit on the basis of Teju Lal (supra) in the matter of Vishnudas Vs. State of MP vide order dated 24/7/2014 passed in WP No.9772/2012.

8. Keeping in view the aforesaid aspect of the matter, the present writ petition is also allowed and the impugned order dated 21/2/2012 Annexure P/1 is set aside.

9. Cc as per rules.