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**(2013) 12 MP CK 0157**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No: 17448 of 2013**

Surya Bali Tiwari

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

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**Date of Decision : 04-12-2013**

**Acts Referred:**

**Citation : (2013) 12 MP CK 0157**

**Hon'ble Judges : Rajendra Menon, J**

**Bench : Single Bench**

**Advocate : P.K. Pathak, for the Appellant; Sharda Dubey, PL for the State on advance notice, for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

Rajendra Menon, J.—Amendment as prayed for vide I.A. No. 16293/2013 is allowed. Amendments be incorporated during the course of the day. Petitioner is challenging the action of the respondents in denying the benefit of second Kramonnati and proposing to make recovery of benefit already granted after retirement from service. The question involved in this petition already decided by a Bench of this Court in the case of Smt. Perna W/o. Shri Pramod Koranne Vs. State of M.P. and Others, in W.P. No. 6773/06, decided on 26/04/2007, and subsequently followed by this Court in series of cases, one such order being passed in W.P. No. 5756/08(s), Shri R.C. Chaurasiya & Others Vs. State of M.P. & Others, decided on 26/05/2008. In the case of Smt. Perna (Supra) the directions given is as under:

17. Consequently these petitions are allowed. The petitioners are entitled to derive the benefit of second Kramonnati according to the terms and conditions mentioned in the circular dated 21/03/1983, 19/04/1999, 02/11/2001 and 03/09/2005. Accordingly, these petitions are disposed of with the following directions:

(i) Clause-3 of policy dated 03/09/2005 fixing the cut of date 01/08/2003 to

grant the benefit of second Kramonnati to the teachers is arbitrary, discriminatory, hence quashed.

(ii) Teachers of Education Department or Tribal Welfare Department are held entitled to get the benefit of Kramonnati under the policy dated 21/03/1983, 19/04/1999 and 02/11/2001, in accordance with the terms and conditions as specified therein.

(iii) In view of the said directions, if the orders of recovery passed by the Government against petitioners are quashed, and if any amount is recovered from them for said reasons be refunded back to them within three months, with interest @ 6% per annum, on failure to comply the said directions within the aforesaid time, the interest @ 9% per annum will be leviable.

(iv) In some of the cases, the benefit of second Kramonnati has not been allowed to the petitioners, however on due consideration of their cases, the respondents are directed to do the needful in accordance with the policy dated 21/03/1983, 19/04/1999, 02/11/2001 and 03/09/2005 and settled their claim including post retiral and pensionary benefits within the period of 6 months from today and the arrears thereof be released along with permissible amount of interest under the law.

2. In the cases of various employees, who had retired from service and in whose cases recovery was effected, a Bench of this Court in W.P. (s) No. 2595/04, had passed an order on 24/03/2005, quashing similar orders of recovery and directing for refund of the amount already recovered keeping in view the order passed by this Court in the case of Smt. Prerna (Supra), so also in W.P. (s) No. 2595/04. There is no reason as to why action identical in nature impugned in this petition be not quashed and similar benefit be not extended to the petitioner.

3. In that view of the matter this petition is allowed, order impugned cancelling the second Kramonnati granted to the petitioner and the consequential order of recovery affected are quashed. Respondents are directed to refund the aforesaid amount to the petitioner in accordance to the order passed, in paragraph 17 (iii) in the case of Smt. Prerna (supra). Consequently, necessary action be taken for revision of petitioner's pension and other post retiral benefits.

4. If for any reason whatsoever, the State Government finds that the benefit cannot be extended, the authorities are free to record reasons for the same and pass a speaking order.

5. Petition stands allowed and disposed of with the aforesaid. C.C. as per rules.