

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.2588 of 2009Order reserved on: 1-7-2021Order delivered on: 29-7-2021

R.N. Kawadkar, S/o Late Shri Krishna Kawadkar, Aged about 56 years, Progressman, Office of SDO/EM/LM/TW/GATE, Water Resources Department, Sakri Sub-Division, Bilaspur, R/o 6/345, Shastri Nagar, Bilaspur

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Water Resources Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. The Chief Engineer, Hasdeo Dam, Water Resources Deptt., Bilaspur (C.G.)
3. The Executive Engineer, E/M, LM, Tubewell & Gate, Water Resources Department, Sakri Division, Bilaspur (C.G.)

---- Respondents

 For Petitioner: Mr. B.P. Rao, Advocate.

For Respondents/State: Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. AgrawalC.A.V. Order

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner has called in question the notification dated 11-6-2007 (Annexure P-2) by which the benefit of Kramonnati has been extended to the Work-charged and Contingent Service employees with effect from 1-4-2007 branding the same as arbitrary, illegal and discriminatory and seeks modification making it applicable to him at par with regular employees.
3. The petitioner herein joined as Progressman in the Water Resources

Department on 16-6-1980 in the pay-scale of ₹ 45-120/- which has been revised under pay revisions finally to ₹ 2,750-4,400/-. It is the case of the petitioner that during 28 years of his service he has not been granted promotion / up-gradation and therefore as per the recommendations of the Fifty Pay Commission, the then undivided State of Madhya Pradesh introduced ACP (Kramonnati Scheme) for its employees vide circular dated 17-3-1999/19-4-1999 and according to these circulars, the petitioner is entitled to get first Kramonnati in the higher pay scale of ₹ 3,050-4,590/- on completion of 12 years of service with effect from 16-6-1992 or at least from 19-4-1999 and second Kramonnati in the subsequent higher pay scale of ₹ 3,500-5,200/- on completion of 24 years of service i.e. with effect from 16-6-2004, but the Government has taken a decision vide circular Annexure P-2 to extend the said benefit with effect from 1-4-2007. It is the further case of the petitioner that he had earlier filed W.P.(S) No.4357/2008 and this Court by order dated 8-8-2008 has directed to make representation which the petitioner has made and which has been rejected by order dated 20-1-2009 (Annexure P-6) leading to filing of this writ petition.

4. Return has been filed stating inter alia that the petitioner has been given the benefit of Kramonnati under the Scheme of Work-charged and Contingent Paid Establishment Employee pursuant to the policy decision of the State Government dated 11-6-2007 (Annexure P-2) with effect from 1-4-2007 and the petitioner's pay scale has been revised as ₹ 3,500-5,200/- from the pay scale of ₹ 2,750-4,400/- and fixed in the pay of ₹ 4,060/- by order dated 9-5-2008. It has also been submitted by way of additional return filed on 4-7-2017 that by order dated 18-4-2007, the benefit of Kramonnati was granted to some of

the Data Assistants, however, same has been withdrawn by order dated 15-6-2009 and it has also been pleaded that it has been extended to the Drivers working under the Government for the reason that there is no promotional channel for Drivers, as such, the writ petition deserves to be dismissed.

5. Mr. B.P. Rao, learned counsel appearing for the petitioner, would submit that the petitioner is entitled for the benefit of Kramonnati with effect from 19-4-1999 as it has been given to the Data Assistants who have joined the service in the year 1980 vide order dated 18-4-2007 (Annexure P-12), as such, the petitioner is entitled for the benefit of first Kramonnati with effect from 16-6-1992 and second Kramonnati from 16-6-2004. He relied upon the order passed by this Court in the matter of S.G. Goswami and others v. State of Chhattisgarh and others¹, the decision of the Supreme Court in the matter of State of Tripura and others v. K.K. Roy², and the orders passed by the M.P. High Court in the matters of Pooralal Singhal and others v. State of Madhya Pradesh and others³, Gendalal and others v. The State of Madhya Pradesh and others⁴ and Suresh Kumar Tiwari v. The State of Madhya Pradesh⁵.

6. Mr. Ravi Kumar Bhagat, learned State counsel, would submit that the circular dated 16-4-2008 by which the benefit of Kramonnati has been given to the Work-charged and Contingent Paid Establishment Employees from 1-4-2007 is strictly in accordance with law, as it is based on the recommendations of the Fifth Pay Commission and it involves financial implication, therefore, the Government has taken a

1 W.P.(S)No.3079/2009, decided on 23-10-2009

2 (2004) 9 SCC 65

3 W.P.No.8247/2016, decided on 11-7-2018

4 W.P.No.461/2018, decided on 16-5-2018

5 W.P.No.9083/2017, decided on 14-3-2019

decision to extend the benefit of the said Kramonnati to the Work-charged and Contingent Paid Establishment Employees also with effect from 1-4-2007 as such the cutoff date prescribed is neither arbitrary nor discriminatory and therefore the petitioner is not entitled for the benefit of said Kramonnati from 19-4-1999/June, 2004.

7. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the material available on record with utmost circumspection.
8. Considering the demand raised by the employees working under the Work-charged and Contingent Paid Establishment to grant the benefit of Kramonnati, the Government of Chhattisgarh took a policy decision by way of circular dated 17-3-1999/19-4-1999 (Annexure P-7) and held that the benefit of Kramonnati scheme would also be applicable to the employees belonging to the Work-charged and Contingent Paid Establishment from 1-4-2007. Accordingly, the petitioners who belong to that category have been given the benefit of Kramonnati with effect from 1-4-2007. The case of the petitioners is that they would be entitled for the said benefit with effect from 17-3-1999/19-4-1999 and 16-6-2004 after completing the service period of 12 years and upon completion of 24 years.
9. The Supreme Court in the matter of Punjab State Co-operative Milk Producers Federation Ltd. and another v. Balbir Kumar Walia and others⁶ has held that if classification of different pay scales is permissible based upon educational qualifications, experience and nature of duties, employees are not entitled to pay scale as claimed.
10. Similarly, in the matter of Hari Ram Gupta (dead) through L.R. Kasturi

Devi v. State of U.P.⁷, the Supreme Court has held that the cut-off date may be justified on the ground that additional financial outlay is involved.

11. Similarly, in the matter of Union of India v. S. Thakur⁸, the Supreme Court has held that matters relating to revision of pay scale and fixing of cut-off date are essentially administrative in nature and normally the scope of judicial review unless outside such executive action “is unreasonable, unjust and prejudicial to a section of the employees”.
12. Reverting to the facts of the case in the light of the aforesaid principle of law laid down by the Supreme Court, it is quite vivid that the Government had already given the benefit of Kramonnati to the employees working under the Work-charged and Contingent Paid Establishment including the petitioners herein with effect from 1-4-2007 fixing the cut-off date. No material has been brought on record to demonstrate that fixing of cut-off date i.e. 1-4-2007 is arbitrary and discriminatory to the petitioners except alleging that the petitioners are also entitled for the benefit of Kramonnati as similar to that of regular employees. The State Government had already shown that the Data Assistants who have been granted the benefit of Kramonnati by order dated 18-4-2007 was granted by mistake and same has been withdrawn vide order dated 15-6-2009 (Annexure R-1). As such, in the considered opinion of this Court, fixing of cut-off date for grant of Kramonnati with effect from 1-4-2007 to the employees working under the Work-charged and Contingent Paid Establishment is neither arbitrary nor discriminatory warranting interference by this Court under Article 226 of the Constitution of India. Consequently, the writ petition seeking direction to the respondents to modify the date of

⁷ (1998) 6 SCC 328

⁸ (2008) 13 SCC 463

implementation of circular dated 11-6-2007 is hereby dismissed
leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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