

Ubedulla Khan Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Oct-18-2012

Appellant : Ubedulla Khan

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. S.P.Khare

Judgement :

WRIT PETITION No.17205/201

18. 10.2012 Shri S.P.Khare, learned counsel for the petitioner.

Ms.Sharda Dubey, learned Panel Lawyer for respondents, on advance copy.

The only grievance of the petitioner is that the benefit of second Kramonnati has not been extended to the petitioner and certain recoveries have been ordered against him on account of cancellation of orders of Kramonnati.

It is contended that the benefit of Kramonnati as was extended by the State Government was squarely applicable in the case of the petitioner and this was done.

The benefit was extended to him, but later on saying that such a circular is not applicable, recovery has been ordered and, therefore, he is required to approach this Court.

Reliance is placed by the learned counsel for the petitioner in the case of Vajra Sen Jain versus The State of M.P.& others [Writ Petition No.824/2004(S)].decided on 15.9.2009, by Gwalior Bench of this Court.

After due consideration of the submissions made by learned counsel for the petitioner, it is seen that the controverRs.involved in the present case is squarely considered and decided by this Court in the case of Vajra Sen Jain (supra).This Court has categorically held that if a Scheme was made for upgradation in the pay scale, that would be only on account of stagnation on one post for a long time and even if the Scheme of grant of higher pay scale is made, it cannot be assumed that the benefit of Kramonnati would not be applicable.

Considering the law laid down by the Apex Court in the case of Sahib Ram versus State of Haryana & others [1995 Suppl.

(1) SCC 18]., WRIT PETITION No.17205/2012 2 this Court has already held that no such recovery can be made from the person concerned.

The operative part of the order passed by this Court in the case of Vajra Sen Jain (supra) in paragraph 7 reads thus :- 7.

Resultantly, the writ petition is allowed.

The respondents are directed to revise the pay scale of the petitioner by taking into account the fiRs.upgradation granted to the petitioner vide order dated 25.8.1984 with effect from 1.4.1981 and also after considering the case of the petitioner for Second Time Bound Upgradation under the Time Bound Upgradation Scheme dated 13.7.1999 and 19.4.1999, the respondents shall fix the salary of the petitioner notionally and shall thereafter pay pension, gratuity and other terminal dues to the petitioner.

The aforesaid exercise shall be concluded positively within a period of three months from the date of receipt of certified copy of this order.

Considering the aforesaid, since the controverRs.involved in the present petition has been put to at rest by this Court by passing the order in the case of Vajra Sen

Jain (supra) and it has been pointed out by the respondents that such order passed by this Court has not been set aside or interfered by any higher forum, the petitioner is also entitled to the same benefit.

Consequently, this writ petition is allowed.

The petitioner will be entitled to the benefit of second Kramonnati from the date it was granted to him and, accordingly, will further be entitled to the revision of his pay and payment of all arrears of salary in case his salary is reduced.

Let this exercise be completed within a period of two months from the date of receipt of certified copy of the order passed today.

WRIT PETITION No.17205/2012 3 With the aforesaid, the writ petition stands allowed and finally disposed of.

There shall be no order as to costs.

Certified copy as per rules.

(K.K.Trivedi) Judge Skc

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