



**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 30<sup>th</sup> OF SEPTEMBER, 2024**

**WRIT PETITION No. 2265 of 2019**

***SMT. LATA SIRANA***

*Versus*

***TRIBAL DEVELOPMENT DEPARTMENT AND OTHERS***

**Appearance:**

Shri Prasanna R. Bhatnagar - advocate for the petitioner.

Shri Vishal Singh Panwar, advocate for the State.

**ORDER**

1] This writ petition has been filed by the petitioner under Article 226 of the Constitution of India against the order dated 05/06/2017 seeking the following reliefs:-

- “a) this petition may kindly be allowed with cost and
- b) the impugned order Annexure P/1, dated 05/06/2017 passed by respondent no.3 and 4, may kindly be quashed and the respondents may kindly be directed to grant benefit of Ind Kramonnati to the petitioner with effect from 18/01/2008, when the petitioner completed 24 years of service.
- c) any other relief which this Hon’ble Court deems fit be also granted.”



2] The petitioner is aggrieved by the order dated 05/06/2017, passed by respondent No.4 whereby the benefit of Second Kramonnati has been denied to her on the ground of not meeting the benchmark, as from the year 2004 to 2008, her ACRs have been graded as 'B', whereas in the year 2006 and 2007, she has been given 'C' grade.

3] Counsel for the petitioner at the outset has submitted that the petitioner has not been communicated the ACRs for all the years i.e., from 2004 to 2008, and has also relied upon the decision rendered by the Supreme Court in the case of *Abhijit Ghosh Dastidar vs. Union of India and others reported as (2009) 16 SCC 146*, in which, the Supreme Court has held that even if a person receives good grade, it is also liable to be communicated to him/her. Thus, it is submitted that in the present case, when the grading was 'B' and 'C', the petitioner ought to have been furnished the ACRs of the relevant years. Counsel has also submitted that even in their reply, the respondents have admitted that the ACRs have not been communicated to the petitioner as there was no provision of the same. Thus, it is submitted that the petition be allowed and the impugned order be quashed.

4] Counsel for the respondents/State, on the other hand, has opposed the prayer and it is submitted that no case for interference is made out as the petitioner's performance during all the years was average and thus, she did not meet the necessary benchmark to get the benefit of second kramonnati.



5] Heard. On due consideration of rival submissions and on perusal of the documents filed on record as also the decision rendered by the Supreme Court in the case of *Abhijit Ghosh Dastidar* (supra), it is found that the Supreme Court, in the aforesaid case has held as under:-

“Coming to the second aspect, that though the benchmark "very good" is required for being considered for promotion admittedly the entry of "good" was not communicated to the appellant. The entry of 'good' should have been communicated to him as he was having "very good" in the previous year. In those circumstances, in our opinion, non-communication of entries in the ACR of a public servant whether he is in civil, judicial, police or any other service (other than the armed forces), it has civil consequences because it may affect his chances for promotion or get other benefits. Hence, such non-communication would be arbitrary and as such violative of Article 14 of the Constitution. The same view has been reiterated in the above referred decision relied on by the appellant. Therefore, the entries "good" if at all granted to the appellant, the same should not have been taken into consideration for being considered for promotion to the higher grade. The respondent has no case that the appellant had ever been informed of the nature of the grading given to him.

(emphasis supplied)

6] If the facts of the case in hand are tested on the anvil of the aforesaid decision, it is apparent that the petitioner has not been communicated the ACRs of the relevant years from 2004 to 2008, and in such circumstances, as a necessary corollary her ACRs for the aforesaid period ought to have been ignored while granting the benefit of Second Kramonnati.

7] Accordingly, the writ petition stands allowed, the impugned order dated 05/06/2017 is hereby quashed, and the respondents are directed to grant Second Kramonnati to the petitioner, in accordance with law, ignoring the ACRs for the year 2004 to 2008. Let this



exercise be completed within a period of three months from the date of receipt of certified copy of this order.

Petition stands *allowed*.

**(SUBODH ABHYANKAR)**  
**JUDGE**

krjoshi