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WP-20578-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 16th OF OCTOBER, 2025WRIT PETITION No. 20578 of 2023*ASHOK KUMAR JAIN**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri L. C. Patne - Advocate for the petitioner.

Shri Kushagra Jain - Dy.G.A for the respondent/State.

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ORDER

The petitioner is aggrieved order dated 26.5.2022 issued by Respondent No. 2 cancelling the order dated 29.10.2021 granting benefit of IIIrd time scale of pay to the petitioner in the pay scale of Rs. 15600-39100/- + 5400/- (matrix level 12) w.e.f. 1.7.2014 on the ground that the petitioner has refused to accept promotion offered to him on the post of Private Secretary way back in the year 2011 whereas the circular for grant of 3rd time scale of pay was introduced by the State Government on 30/9/2014 w.e.f 1/7/2014 and, therefore, the claim has been wrongly rejected.

2. Facts of the case draped in brevity are that the petitioner was promoted on the post of Stenographer to the post of Private Secretary in the regular pay scale of Rs. 9300 - 34800/- + 3600/- by an order dated 6.5.2011 issued by Respondent No. 2, vide Sr. No. 1. Citing personal difficulties, the petitioner sought for relinquishment of his promotion order which was



forwarded by Chief Engineer, PWD, Indore to the office of Respondent No. 2 by an order dated 15.6.2011. Accordingly, the Respondent no. 2 permitted the petitioner to relinquish his promotion order on the post of Private Secretary. The petitioner was not being granted benefit of IIIrd time scale of pay and therefore, he submitted a representation dated 27.7.2021 addressed to Respondent No. 2 and ultimately, the Respondent No. 2, by an order dated 29.10.2021 sanctioned the petitioner benefit of 3rd time scale of pay upon completion of 30 years of service. w.e.f. 1.7.2014, vide Sr. No. 1 in the then regular pay scale of Rs. 15600-39100/- +5400/- (revised to pay matrix Level-12 w.e.f. 1.1.2016). The pay fixation of the petitioner was made in the aforesaid pay scale and the same was forwarded by the office of Respondent No. 3 to the office of Joint Director of Treasury and Accounts, Indore Division, Indore for its approval, vide letter dated 13.1.2022. Anticipating sanction of the aforesaid pay fixation, the petitioner stood retired from the post of Stenographer attaining the age of superannuation of 62 years w.e.f. 31.5.2022 vide order dated 28.2.2022. Upon an objection raised by Joint Director of Treasury and Accounts, Indore Division, Indore, relying upon Circular dated 24.1.2008, Clause No. 13, the petitioner was found to be ineligible for grant of IIIrd time scale of pay upon completion of 30 years of service in terms of Circular dated 30.9.2014 and accordingly, the Respondent No.3 informed the Respondent No. 2 as well as to the petitioner about such ineligibility. Being aggrieved by the aforesaid communication, the petitioner preferred a representation dated 6.4.2022 to Respondent No. 2 but by the impugned order dated 26.5.2022, the claim of the petitioner for grant of IIIrd



time pay scale has been rejected and the order dated 29.10.2021 in so far as it relates to the petitioner was also cancelled.

3. The respondents have filed the reply and submitted that the petitioner was granted promotion from the post of personal assistant to Personal Secretary in the year 2011 but he had forgo the aforesaid promotion. As per Clause 13 of the circular dated 24/1/2008, the petitioner is not entitled for IIIrd time scale pay in which it is clearly held that if an employee had forgo promotion, he would not be entitled in future for financial benefits of the higher payscale.

4. Counsel for the petitioner argued that clause 13 of the circular of the finance department dated 24/1/2008 was not made known to the petitioner by the department.

5. Upon perusal of the circular of the finance department dated 30/9/2024, it is manifest that the said circular was issued in reference to the earlier circular dated 24/1/2008 and in para 6 of the circular it has been made clear that the directions issued in the order/circular of the finance department dated 24/1/2008 shall remain intact and the same shall continue to be applicable. The condition No.13 of circular dated 24/1/2008, Annexure P-8 unequivocally makes a provision that in case of refusal/forgo of the promotion, the employee shall not be entitled for the benefit of higher payscale. However, the benefit was already granted to him and thus, the higher pay-scale would not be withdrawn, but in future, he will not be entitled for the benefits of the higher payscale. The clause 13 of the circular dated 24/1/2008 has to be read with circular dated 30/9/2014, Annexure P-3.



The contention of counsel for the petitioner that the "department should have made known about clause 13 of the circular dated 24/1/2008 to the petitioner" cannot be accepted as the petitioner was granted the benefit of the time scale pay under the same circular and, therefore, he cannot take the aforesaid stand that he was not aware of clause 13.

6. Counsel for the petitioner argued that the impugned order is illegal and arbitrary as the petitioner's promotion order was issued in the year 2011 and at that time there was no provision for grant of IIIrd time scale pay for an incumbent upon completion of 30 years of service which was introduced by the State Government only on 30/9/2014 w.e.f 1/7/2014. Therefore, IIIrd time pay-scale could not have been denied on the ground of earlier forgo of promotion.

7. This Court does not find any merit in the aforesaid contention. The issue relating to entitlement of benefit of Krammonati/time scale pay in a case of denial of promotion was referred to the Full Bench and has been recently answered by the Full Bench in the case of Ramesh Chandra Temniya vs. State of M.P and Ors. in W.A No.583/2020 by order dated 14/2/2025. The issue of reference before the Full Bench is reproduced as under:-

“1. Whether an employee who declined promotion, is entitled to get benefit of kramonnati ?

2. Whether withdrawal of Kramonnati erroneously granted without anything more and without attaching any stigma and penal consequences amounts to punishment ?

3. Whether such withdrawal of upgradation benefits hits Article 311 of the Constitution of India ?”



8. In para 31 & 32 the same is answered which is reproduced as under:-

"31. Thus, to answer first issue in reference as to 'whether an employee who declined promotion, is entitled to get benefit of kramonnati', the answer in categorical terms is NO. Once an employee declines regular promotion, he is not entitled to get benefit of kramonnati.

32. As far as second issue as to 'whether withdrawal of kramonnati erroneously granted without anything more and without attaching any stigma and penal consequences, amounts to punishment?' is concerned, this is when clubbed to the third aspect of reference i.e. 'whether such withdrawal of upgradation benefits hits Article 311 of the Constitution', it is appropriate to refer Article 311 of the Constitution. Article 311 of the Constitution deals with dismissal, removal or reduction in rank. Thus, to attract the provisions of Article 311 of the Constitution, it should be either a case of dismissal, removal or reduction in rank. As far as dismissal and removal are concerned, it does not call for any elaborate discussion, as admittedly, withdrawal of kramonnati does not amount to either dismissal or removal."

9. In the light of the answer by the Full Bench, this Court finds that there is no illegality in the impugned order. So far submission of counsel for the petitioner that since the scheme of IIIrd time scale of pay was introduced by circular dated 30/9/2024 was existing at the relevant time and the same was brought after the forgo of the promotion, therefore, the petitioner could not have been denied the said benefit is concerned, this Court finds no merit in the said contention. The time scale pay schemes are introduced on account of stagnation of promotion avenue of an employee. Once promotion is made and the employee forgo the promotion, he is not entitled for the time scale pay.



10. In view of the aforesaid, present petition stands dismissed.

(VIJAY KUMAR SHUKLA)
JUDGE

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