

## **CONC-922-2016**

*(NAMDEO PATIL Vs SHRI PRAMOD AGARWAL)*

**19-12-2016**

Shri Sudarshan Chakrawarty, learned counsel for the applicant.

Shri Amit Seth, learned counsel for the respondent No.3.

1. Learned counsel for the applicant submits that the order passed by this Court in W.P. No.14751/15 dated 8.9.2015 has not been complied with by the respondents.
2. The respondents have filed a reply alongwith the compliance report of the order dated 21.7.2016, however, rebutting the same the petitioner has filed a rejoinder and stated that the respondents have not decided the claim of the petitioner in light of the judgment dated 7.11.2015 passed in WP No.1070/2003 *K.L. Asre Vs. State of M.P. & Ors.*
3. According to the petitioner the benefits of Kramonnati has been granted to the similarly situated persons namely Madan Gopal Sachan and C.B. Dubey in light of the judgment passed in the case of K.L. Asre (supra), but it has been denied to him illegally. The respondents have filed SLP (Civil) CC No.8436/2014 before the Hon'ble Supreme Court, which was decided on 4.7.2014, whereby the Hon'ble Apex Court has already considered the entitlement of time bound promotion to contingency paid employees. Hence, the petitioner is also entitled to get the benefit of time bound promotion scheme and the same has been affirmed by the Hon'ble Supreme Court. On the above ground, learned counsel for the applicant prays for initiation of contempt proceedings against the respondents.
4. As per order (Annexure-R/1) passed by the respondent No.2, whereby it is clear that the petitioner is not entitled to receive the benefits of Kramonati as he is working as a driver in contingency paid

establishment and there is no provision for them for time bound promotion or Kramonnati. On the above ground representation of the petitioner has been rejected.

5. Heard learned counsel for the parties and perused the record.

6. After order dated 8.9.2015, passed by this Court in WP No.14751/15, the respondents have passed a reasoned and speaking order on 21.7.2016 (Annexure-R/1) which may be termed as a little late but the detailed order passed encompasses relevant facts and reasons for disallowing the representation. In these circumstances it cannot be said that a deliberate circumvention and dubious method was adopted by respondents to avoid implementation of order of Court. In the case of Anil Kumar Shahi & Ors. Vs. Professor Ram Sevak Yadav & Others (2008) 14 SCC 115 the Apex Court has held as under:-

“The contempt of Courts Act, 1971 has been brought to the statute book to define the limit and powers of certain Courts punishing for contempt of Court and it has laid down the procedure for exercise of such powers. Under the Act and under Article 129 of the Constitution, if it is alleged before the Supreme Court that a person has willfully violated its order, it can invoke its jurisdiction under the Act to enquire whether the allegation is true or not and if found to be true, it can punish the offenders for having committed “civil contempt” and if need be, can pass consequential orders for enforcement or execution of the order, as the case may be for violation of which, the proceeding for contempt was initiated. While exercising its power under the Act, it is not proper to the Court to pass an order, which will materially add to or alter the order for alleged disobedience of which contempt jurisdiction was invoked. When the Court directs the authority to consider a matter in accordance with law, it means that the matter should be considered to the best of

understanding by the authority and, therefore, mere error of judgment with regard to legal position cannot constitute contempt of Court. There is no willful disobedience if best efforts are made to comply with the order.ÃÃÃÃÃÃ

7. The aforesaid principle was followed in the case of Maya Devi Dewangan Vs. M.R. Meena and Another by the coordinate bench of this Court reported in 2016(3) MPLJ 405.

8. In the case of Satish Shrivastava Vs. M.K. Varshane and Ors {2016 (3) MPLJ 388} the same principle has been followed in light of the principles laid down by the Division Bench of this Court in the case of Manjula Choudhary Vs. Priyanka Chouhan {2015(4) MPLJ 704}.

9. In the case of J.P. Parihar Vs. Ganpat Duggar (1996) 6 SCC 291, it has been made clear that once the order passed by the authority in compliance of the directions issued by the Court, whether rightly or wrongly, fresh cause of action arises for seeking redressal before an appropriate forum until and unless it is established that the order of compliance is in blatantly violation of the direction of this Court, no action is required to be taken under the Contempt of Court Act.

10. For the above discussions and reasons mentioned above, no case to initiate contempt proceedings against the respondents is made out. Hence, this contempt petition is dismissed.

**(SMT. ANJULI PALO)**  
**JUDGE**

skm