State Of Mp. & Ors vs Mala Banerjee on 17 March, 2015

Equivalent citations: 2015 AIR SCW 2844, 2015 (7) SCC 698, 2015 LAB. I. C. 3040, AIR 2015 SC (SUPP) 1140, (2015) 146 FACLR 72, (2016) 1 MPLJ 246, (2015) 2 SERVLJ 357, (2015) 3 KCCR 277, (2015) 3 ESC 541, (2015) 2 SCT 535, (2015) 3 SCALE 721, (2015) 3 MPHT 8, (2015) 6 ALL WC 6129

Author: Vikramajit Sen

Bench: Prafulla C. Pant, Vikramajit Sen

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2944 OF 2015
Arising out of SLP(C)No. 35931 OF 2009

STATE OF M.P. & ORS. .. APPELLANT(s)

Vs.

MALA BANERJEE .. RESPONDENT(s)

WITH

C.A. No. 2945 of 2015 [Arising out of SLP(C)No. 35932 of 2009],

C.A. No. 2946 of 2015 [Arising out of SLP(C)No.35933 of 2009],

C.A. No. 2947 of 2015 [Arising out of SLP(C)No.35935 of 2009],

C.A. No. 2948 of 2015 [Arising out of SLP(C)No.35937 of 2009],

C.A. No. 2949 of 2015 [Arising out of SLP(C)No.35938 of 2009],

C.A. No. 2950 of 2015 [Arising out of SLP(C)No.35939 of 2009],

C.A. No. 2951 of 2015 [Arising out of SLP(C)No. 35940 of 2009],

C.A. No. 2952 of 2015 [Arising out of SLP(C)No.35941 of 2009],

C.A. No. 2953 of 2015 [Arising out of SLP(C)No.35942 of 2009],

C.A. No. 2954 of 2015 [Arising out of SLP(C)No.35943 of 2009],

C.A. No. 2955 of 2015 [Arising out of SLP(C)No.35945 of 2009],

C.A. No. 2956 of 2015 [Arising out of SLP(C)No.35946 of 2009],

C.A. No. 2957 of 2015 [Arising out of SLP(C)No.3082 of 2010],

C.A. No. 2958 of 2015 [Arising out of SLP(C)No.3325 of 2010],

C.A. No. 2959 of 2015 [Arising out of SLP(C)No.10321 of 2010],

C.A. No. 2960 of 2015 [Arising out of SLP(C)No.11912 of 2010],

C.A. No. 2961 of 2015 [Arising out of SLP(C)No.11949 of 2010],

C.A. No. 2962 of 2015 [Arising out of SLP(C)No.12890 of 2010],

C.A. No. 2963 of 2015 [Arising out of SLP(C)No.13764 of 2010],

C.A. No. 2964 of 2015 [Arising out of SLP(C)No.18394 of 2010],

C.A. No. 2965 of 2015 [Arising out of SLP(C)No.18457 of 2010],

C.A. No. 2966 of 2015 [Arising out of SLP(C)No.18460 of 2010],

C.A. No. 2967 of 2015 [Arising out of SLP(C)No.18964 of 2010],

C.A. No. 2968 of 2015 [Arising out of SLP(C)No.18965 of 2010],

C.A. No. 2969 of 2015 [Arising out of SLP(C)No.18966 of 2010],

C.A. No. 2970 of 2015 [Arising out of SLP(C)No.18967 of 2010],

C.A. No. 2971 of 2015 [Arising out of SLP(C)No.18968 of 2010],

C.A. No. 2972 of 2015 [Arising out of SLP(C)No.18970 of 2010],

C.A. No. 2973 of 2015 [Arising out of SLP(C)No.18971 of 2010],

C.A. No. 2974 of 2015 [Arising out of SLP(C)No.18972 of 2010],

C.A. No. 2975 of 2015 [Arising out of SLP(C)No.18973 of 2010],

C.A. Nos. 2976-2977 of 2015 [Arising out of SLP(C)Nos.18974-18975 of 2010],

C.A. No. . 2978 of 2015 [Arising out of SLP(C)No.21631 of 2010],

C.A. No. 2979 of 2015 [Arising out of SLP(C)No.22309 of 2010],

C.A. No. 2980 of 2015 [Arising out of SLP(C)No.23986 of 2010],

C.A. No. 2981 of 2015 [Arising out of SLP(C)No.25706 of 2010],

C.A. No. 2982 of 2015 [Arising out of SLP(C)No.35890 of 2010],

C.A. No. 2983 of 2015 [Arising out of SLP(C) No.7310 of 2011],

C.A. No. 2984 of 2015 [Arising out of SLP(C) No.17537 of 2011],

C.A. No. 2985 of 2015 [Arising out of SLP(C) No.20128 of 2011]

C.A. No. 2987 of 2015 [Arising out of SLP 8401/2015 @ CC No. 5205 of 2012],

C.A. No. 2988 of 2015 [Arising out of SLP (C) No. 11841 of 2012],

C.A. No. 2989 of 2015 [Arising out of SLP(C) No.24864 of 2012],

C.A. Nos. 2990- 2991 of 2015 [Arising out of SLP(C) Nos.26756-26757 of 2012],

C.A. No. 2992 of 2015 [Arising out of SLP(C) 8403/2015 @ CC No.7597 of 2013],

C.A. No. 2993 of 2015 [Arising out of SLP(C) No.8407/2015 CC No. 7611 of 2013],

C.A. No. 2994 of 2015 [Arising out of SLP(C)No.33945 of 2013],

C.A. No. 2995 of 2015 [Arising out of SLP(C)No.2581 of 2014]

C.A. No. 2996 of 2015 [Arising out of SLP(C)No.8516 of 2014],

C.A. No. 2997 of 2015 [Arising out of SLP(C)No.14208 of 2014],

C.A. No. 2998 of 2015 [Arising out of SLP(C)No.17279 of 2014],

C.A. No. 2999 of 2015 [Arising out of SLP(C)No.25975 of 2014],

C.A. Nos. 3000-3003 of 2015 [Arising out of SLP(C)Nos.29520-29523 of 2014]

J U D G M E N T

VIKRAMAJIT SEN, J.

1 Delay condoned. Leave granted.

2 These Appeals assail the Judgment of the learned Division Bench of the High Court of Judicature of Madhya Pradesh, Bench at Gwalior, delivered on 22.10.2008, which upheld the Judgment dated 16.10.2007 of the learned Single Judge.

3 Very briefly stated, the dispute pertains to the eligibility of the Respondents, all of whom are Lecturers/Teachers in the employment of the Education and Tribal Welfare Department, Government of Madhya Pradesh, for increased pay scales. The Respondents claim the benefits of the Kramonnati Scheme with effect from 19.4.1999, whereas the Appellants assert that they are willing to grant the benefit of the Kramonnati Scheme to them, and obviously others similarly placed as they are, but with effect from 1.8.2003.

4 Under the Madhya Pradesh Revision of Pay Rules, 1990, the Respondents, were eligible for a higher pay scale on completion of 12 years of service. Subsequently, a policy dated 19.4.1999 known as the said Kramonnati Scheme came to be introduced entitling all Government servants to the benefit of two higher pay scales, the first on completion of 12 years of service, and the second on the further completion of another 12 years (24 years in all). The Appellants contend that this Circular applied to all their employees except the Teacher cadre, since the latter had already enjoyed the benefit of the Madhya Pradesh Revision of Pay Rules. On 2.11.2001, the Commissioner Public Instructions sanctioned the second Kramonnati for teachers with effect from 19.4.1999. The stand of the Appellants is that this was erroneously extended without obtaining the consent of the Finance Department, and was accordingly corrected by order dated 11.10.2006. However, despite this stance, the State Government took a policy decision on 3.9.2005 granting the benefit of a second Kramonnati to Teachers, but with effect from 1.8.2003. Recovery proceedings were initiated against teachers who had been bestowed Kramonnati from the earlier date.

5 The object of the Kramonnati Scheme must be noted, as this sheds light on its application. The Scheme was introduced to remove frustration among employees who had stagnated at a particular scale for many years without promotional avenues, with the endeavour of removing any adversity in their performance. Keeping this purpose in perspective, there is no basis or justification for discriminating between teachers and all other employees. The fact that the Madhya Pradesh Revision of Pay Rules were already in place at the time the Kramonnati Scheme was introduced indicates that the Appellants accepted that increase in pay scale are salutary and indeed important for educators on whose motivation and dedication the future of the country and of society is almost entirely dependent. We do not agree with the Appellants' submission that the Respondents are not entitled to claim the benefit of the Kramonnati Scheme because they were already covered under the Madhya Pradesh Revision of Pay Rules, as there is no basis for the two being mutually exclusive. Indeed, we find it logical that the application of the Madhya Pradesh Revision of Pay Rules regarding the eligibility of increased pay scales should be replaced by the Kramonnati Scheme, which is more generous in the benefits it provides. This is all the more so since the Appellants have themselves ordained that the said Scheme can be availed by the Respondents but from 1.8.2003, which we find to be arbitrary and devoid of any logical foundation.

6 The Appellants have claimed that its Notifications indicated with clarity that the Scheme would not apply to those Departments where a provision of Kramonnati was already available in their Recruitment Rules. However, a perusal of the relevant Clarification issued by the State Government dated 3.5.2000/17.5.2000 makes it clear that its purpose was to protect employees who were working in Departments that had a provision of Kramonnati in their Recruitment Rules, by preventing any reduction in Kramonnati pay scale as a consequence of the new 19.4.1999 policy. It is

our understanding that the Clarification intended to prevent the class of employees envisaged therein from facing any monetary loss and not to disadvantage any class of employee.

7 We also find ourselves unable to agree with the Appellants submission that this is a policy matter and, therefore, should not be interfered with by the Courts. In Federation of Railway Officers Association vs. Union of India (2003) 4 SCC 289, this Court has already considered the scope of judicial review and has enumerated that where a policy is contrary to law or is in violation of the provisions of the Constitution or is arbitrary or irrational, Courts must perform their constitutional duties by striking it down. The Appellants have not been able to explain why it chose to deny teachers the benefit of the second Kramonnati while granting this benefit to all other employees, thus discriminating against them and violating their fundamental rights enshrined in Articles 14 and 16 of the Constitution. It is indeed paradoxical that teachers who prepare persons for employment and leadership are dealt with in a parodical attitude by the State. Further, we reiterate that no explanation is forthcoming for granting the second Kramonnati with effect from 1.8.2003. This is neither the date in the original scheme nor justifiable on the basis of any other material available on the record. Many employees had completed twenty four years of service by 1999; therefore, in postponing their second Kramonnati by four years, the Appellants have departed from the basic object of the Scheme. The 3.9.2005 Order failed to explain the basis of this decision, and is thus arbitrary in nature and discriminatory towards the Respondents and others in their position.

8 The annals of this litigation also need to be considered in some detail. The arguments ventilated before us were considered in detail by the Writ Court in Smt. Prerna v. State of Madhya Pradesh, which was decided on 26.4.2007 by a learned Single Judge of that High Court at its Indore Bench. Thereafter, another learned Single Judge of that High Court at its Gwalior Bench decided the present Writ Petitions from which these Appeals/Petitions arise in favour of the Respondents vide its Judgment dated 16.10.2007. Although the reasoning that has persuaded the second learned Single Judge to decide in favour of the Respondents is evident from the perusal of that Judgment, reliance on the Judgment dated 26.4.2007 passed in Smt. Prerna had been duly considered. We must immediately emphasise that a Bench should ordinarily follow the decision of a Coordinate Bench or else should forward the matter to the learned Chief Justice for constituting a Larger Bench in case the reasoning and conclusion of the Coordinate Bench is not acceptable. The Appeal from the Judgment dated 16.10.2007, has been dismissed by the Division Bench in terms of the Judgment impugned before us, and that is how the Special Leave Petitions (now Appeals) came to be filed. In this interregnum, an appeal that had been preferred from the Order of the learned Single Judge, Indore Bench has also been decided on 18.12.2008 in favour of the Respondents, taking note of the Judgment by a Coordinate Bench presently impugned before us. We had made this clarification because one of the arguments that has been ventilated before us is that the two sets of petitions had not been considered threadbare by the two Benches located at Indore and Gwalior. This has not lead to any legal irregularity, in that the learned Single Judge, as well as the learned Division Bench have sequentially considered the matter in detail.

9 We do not find any illegality in the Impugned Judgment and the Appeals are dismissed, but we desist from imposing costs.

10 Since these Appeals are being dismissed, it would be a futile and wasteful exercise to take up all pending Applications. To remove possible doubts, all the Applications are dismissed.

.....J. [VIKRAMAJIT SEN] .....J. [PRAFULLA C. PANT] New Delhi;

March 17, 2015.
