**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 10th OF NOVEMBER, 2022

WRIT PETITION No.2414 OF 2016

BETWEEN:-

KAUSHAL KISHORE MISHRA, S/O LATE SHRI C.L. MISHRA, RETD. DISTRICT PROSECUTION OFFICER, JABALPUR, R/O PITAMBARA VILLA, SURESH NAGAR, GWALIOR (MADHYA PRADESH).

…....PETITIOENR

(BY SHRI D.P. SINGH – ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH, THROUGH ITS PRINCIPAL SECRETARY, DEPARTMENT OF HOME (PROSECUTION/POLICE), MANTRALAYA, GOVT. OF MADHYA PRADESH, VALLABH BHAWAN, BHOPAL (MADHYA PRADESH).**
2. **THE DIRECTORATE OF PROSECUTION, BADBADA ROAD, BHOPAL.**
3. **THE DIRECTOR, TREASURY &**

ACCOUNTS, GOVT. OF MADHYA PRADESH, BHOPAL (MADHYA PRADESH).

4. **THE DIVISIONAL JOINT DIRECTOR, TREASURY, ACCOUNTS AND PENSION, JABALPUR (MADHYA PRADESH).**
5. **SHRI N.P. SINGH, DIVISIONAL JOINT DIRECTOR, TREASURY, ACCOUNTS & PENSION, JABALPUR (MADHYA PRADESH).**
6. **THE DISTRICT PROSECUTION OFFICER, JABALPUR (MADHYA PRADESH).**

…....RESPONDENTS

(BY SHRI SANJAY KUMAR SHARMA – GOVERNMENT ADVOCATE)

This petition coming on for hearing this day, the Court passed the following:

ORDER

This petition under Article 226 of the Constitution of India has been filed seeking the following reliefs:-

"(i) That, the remark put up in the order impugned dated 24.8.2015 (Annexure P-1) may kindly be ordered to be quashed with a further direction to quash the order of recovery (Annexure P-8).

(ii) That, the respondents No.3 & 4 be commanded to approve first time bound pay scale allowed to the petitioner of Rs.6500-10500 w.e.f. 19.4.1999 and to finalize the pension case of the petitioner forthwith by issuance of an appropriate writ or direction.

(iii) That, the respondents be restrained from making

any recovery from the petitioner of first time bound pay scale which is already paid to the petitioner by issuance of appropriate writ or direction.

(iv) That any other relief which is suitable in the facts and circumstances of the case in favour of the petitioner including the costs throughout may also be granted."

2. It is submitted by the counsel for the petitioner that the petitioner was appointed as Assistant Public Prosecution Officer, Grade-II and by order dated 31/7/2014 he was promoted as District Prosecution Officer w.e.f.15/10/2012. The petitioner stood retired on 31/12/2014 after attaining the age of 60 years. Vide order dated 27/8/2009 the petitioner was granted first Kramonnati after seeking due approval from the Departmental Committee. After the petitioner stood retired, an objection was raised by the respondents that the petitioner has been wrongly given the benefit of first Kramonnati and, therefore, this petition has been filed.

3. A preliminary objection has been raised by the counsel for the State with regard to the territorial jurisdiction of this Court. It is submitted that the petitioner has retired as District Prosecution Officer from Jabalpur and the first Kramonnati was granted to him while he was posted in Jabalpur, as well as objection has been raised by Treasury Office, Jabalpur, according to which grant of 1st Kramonnati was found to be improper, however, this petition has been filed before this Court.

4. The only question for consideration is "as to whether this Court has a territorial jurisdiction to entertain this petition or not?"

5. It is submitted by the counsel for the petitioner that after retirement the petitioner has settled in Gwalior, therefore, this Court has a territorial jurisdiction to entertain this writ petition. The counsel for the

petitioner in support of his contention has relied upon the judgment passed by the Supreme Court in the case of **Shanti Devi Vs. Union of India and others** reported in **(2020) 10 SCC 766**. This submission is refuted by the counsel for the respondents.

6. From the plain reading of the judgment passed in the case of **Shanti Devi (supra)**, it is clear that since the post retiral pension was stopped which was being received by the petitioner at a place falling within the territorial jurisdiction of Patna High Court, therefore, the Supreme Court had held that a part of cause of action has arisen within the territorial jurisdiction of Patna High Court, whereas in the present case, the first Kramonnati was granted to the petitioner while he was serving at Jabalpur. Objections were raised by the Treasury Office, Jabalpur, which is evident from letter dated 25/8/2015. Thus, the entire cause of action arose at Jabalpur. Cause of action means a bundle of facts, which are required to be adjudicated. Merely because the petitioner is residing at Gwalior, would not mean that any cause of action has arisen within the territorial jurisdiction of this Court. Since the place of residence of the petitioner has nothing to do with the cause of action, therefore, this Court is of the considered opinion that this Court has no territorial jurisdiction to entertain this Writ Petition.

7. Accordingly, the petition is **dismissed,** however, liberty is granted to the petitioner that if so advised, then he can approach the Court of competent jurisdiction.

(G.S. AHLUWALIA)
JUDGE

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