

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 5170 of 2023.

Reserved on: 11th March, 2024.

Date of Decision : 18th March, 2024.

Suneet Singh Jaryal

...Petitioner.

Versus

State of H.P. & Anr.

....Respondents.

Coram:

The Hon'ble Mr. Justice Satyen Vaidya, Judge.

Whether approved for reporting?¹ No.

For the Petitioner:

Ms. Anita and Ms. Aashima
Premy, Advocates, vice counsel.

For the Respondents:

Mr. Y. P. S. Dhaulta, Mr. Mohinder
Zharaick, Mr. Aman Deep Sharma
and Mr. L.N. Sharma, Addl.
Advocates General.

Satyen Vaidya, Judge.

By way of instant petition, the petitioner has
prayed for following substantive relief:-

*“(ii) That the entire amount of Rs.6.03,615/- along with
interest at the rate of 12% from the date of
retirement i.e. 30.05.2020 till date of payment
may kindly be ordered to be paid to the
petitioner.”*

¹ Whether reporters of the local papers may be allowed to see the judgment?

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2. Petitioner retired on 31.05.2020 as Superintendent Grade-II from Government Senior Secondary School Barour, Tehsil and District Chamba, H.P.

3. Government of Himachal Pradesh notified Himachal Pradesh Civil Services (Revised Pay) Rules, 2022 vide notification dated 3rd January, 2022, whereby, the revision of pay came into force w.e.f. 01.01.2016. State Government also issued office memorandum dated 25th February, 2022, whereby Rules regulating pension, retirements/death/Service Gratuity and Family Pension under the C.C.S.(Pension) Rules 1972 and the Commutation of Pension under the CCS (Commutation of Pension) Rules, 1981, were revised/modified.

4. Petitioner also became entitled to the benefit of revision of pay w.e.f. 01.01.2016 in terms of Himachal Pradesh Civil Services (Revised Pay) Rules, 2022 and for revised gratuity, leave encashment and commutation on pensionary benefits in terms of office memorandum dated 25th February, 2022.

5. On account of aforesaid revision, the total increased pay of the petitioner w.e.f. 01.01.2016 to

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31.05.2020 comes to Rs.3,23,124/- and out of the said amount, the respondents have paid only Rs.50,000/- to the petitioner. The balance amount has not been paid by the respondents to the petitioner till date as is evident from office order dated 29th November, 2022, Annexure P-1.

6. Petitioner also became entitled to revised Death-cum-Retirement Gratuity to the tune of Rs.4,13,126. Out of the said amount, the respondents have paid only Rs.82,625/- and the balance amount of Rs.3,30,491/- has not been paid to the petitioner as is evident from Annexure P-2 .

7. Since, the petitioner till date has received only partial amount out of the due and admissible amount in terms of aforesaid revisions, he has approached this Court for directions as noticed above.

8. Respondents have not filed the reply. However, the learned Additional Advocate General has not denied the claim of petitioner. The financial constraints and lack of resources have been put up as defence for non payment of amount due to petitioner. It has been submitted that the State Government is in the process of gradually wiping out its liability towards the payment of dues of its employees on

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account of revision of pay scales as also modification in the Rules regulating pension, retirements/death/Service Gratuity and Family Pension under the C.C.S.(Pension) Rules 1972 and the Commutation of Pension under the CCS (Commutation of Pension) Rules, 1981.

9. I have heard learned counsel for the parties and have also gone through the record carefully.

10. In view of the admission made by respondents, there is no difficulty or impediment in granting the prayers made in the petition. The only question that remains to be answered is whether the pensionary and allied benefits as envisaged under Revised Pay Rules, 2022 and office memorandum dated 25th February, 2022, can be withheld by the State Government for indeterminate period on the pretext of lack of resources. The questions needs to be answered in negative for the simple reason that once legal vested right accrues to a serving or retired government employee, the same cannot be denied or even withheld that too for an indefinite period. Further more, the pensionary benefits including gratuity, leave encashment and commutation enure as security to a retired government employee, who has toiled

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for substantial part of his life by rendering public service at the cost of his flesh and blood with the hope and under a promise to secure his and his family's future after retirement. More often than not, the retiral benefits to a retired government employee are the only source of bread and butter. Once, the government has announced the grant of aforesaid benefits to its employees, the same can neither be subsequently denied nor delayed for indeterminate period more particularly on the pretext of financial constraints. The State Government is under legal obligation to fulfill its promise.

11. Recently, in ***Punjab State Cooperative Agricultural Development Bank Limited vs. Registrar Cooperative Societies and others, (2022)4 SCC 363***, the Hon'ble Supreme Court has observed as under:-

“57. In our view, non availability of financial resources would not be a defence available to the appellant Bank in taking away the vested rights accrued to the employees that too when it is for their socio economic security. It is an assurance that in their old age, their periodical payment towards pension shall remain assured. The pension which is being paid to them is not a bounty and it is for the appellant to divert the resources from where the funds

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can be made available to fulfill the rights of the employees in protecting the vested rights accrued in their favour."

12. In identical fact situations, on earlier occasions also an Hon'ble coordinate bench of this Court in CWP No. 6611 of 2023, titled as Surinder Singh vs. State of H.P. & Anr., decided on 19th September, 2023 and CWP No. 5651 of 2023, titled as Dr. Sunil Kumar Chandel & Ors. vs. State of H.P. & Ors, decided on 26th September, 2023, has negated the contention raised by State Government and the directions have been issued to the State Government to pay the due and permissible amounts to the petitioners in terms of Revised Pay Rules, 2022 and OM dated 25th February, 2022, within six weeks from the date of passing of judgment along with interest @ 6% per annum.

13. This Court does not find any reason to take a view different than the one taken by a coordinate bench of this Court while deciding aforesaid CWP Nos. 6611 of 2023 and 5611 of 2023.

14. Accordingly, the instant petition is allowed and the respondents are directed to pay the balance of due and

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permissible amount to the petitioner in terms of Himachal Pradesh Civil Services (Revised Pay) Rules, 2022, and office memorandum dated 25th February, 2022, whereby Rules regulating pension, retirements/death/Service Gratuity and Family Pension under the C.C.S.(Pension) Rules 1972 and the Commutation of Pension under the CCS (Commutation of Pension) Rules, 1981 were modified, alongwith interest @ 6% per annum within six weeks from the date of passing of this judgment. Petition stands disposed of accordingly.

15. Pending applications, if any, also stand disposed of.

(Satyen Vaidya)
Judge

18th March, 2024.
(jai)