



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No. 7658 of 2020

Reserved on 19.8.2023

Decided on : 28.8.2023.

Veena Devi

...Petitioner.

Versus

State of H.P. & others

...Respondents

Coram:

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

*Whether approved for reporting?*¹ Yes.

For the petitioner : Mr. Bonit, Advocate vice Mr. A. K. Gupta, Advocate.

For the respondents : Mr. Pushpender Jaswal, Addl. A.G. with Mr. Gautam Sood, Mr. Rahul Thakur and Ms. Priyanka Chauhan, DAGs, for respondents No. 1 to 3.

Mr. Rajinder Thakur, CGC, for respondent No.4.

Satyen Vaidya, Judge:

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

“That the respondents may be ordered to fix the pension of the applicant as per Rule 49 of the Pension Rules, 1972 and as per the notification issued in this behalf and also as per the notification issued in the year 2009 and revived in the year 2018 and the benefits incidental thereof may also be paid to the applicant.”

¹ **Whether reporters of Local Papers may be allowed to see the judgment?**

2. After serving the State Government for more than 29 years petitioner opted for pre-mature retirement and stood retired w.e.f. 31.8.2017. The last post held by petitioner was of Superintendent Grade-II in the office of SDM, Nagrota-Bagwan, District Hamirpur, H.P. The pension of the petitioner was fixed at Rs. 9658/- per month, whereas the petitioner claimed it at Rs. 10990/- per month i.e. 50% of the basic pay last drawn by her at Rs. 21980/-.

3. The respondents justify the fixation of the pension of the petitioner at Rs. 9658/- per month by calculating the period of service rendered by the petitioner in proportion to the period of qualifying service of 33 years. It is alleged that at the time of retirement of petitioner, the notification dated 11.11.2014, issued by the Government of Himachal Pradesh was in vogue, according to which, the payable amount of pension for those retiring after completion of qualifying service of ten years but before completing qualifying service of 33 would be in proportion as stated above.

4. On the other hand, the case of the petitioner is that vide Office Memorandum dated 14.10.2009, issued by the Government of Himachal Pradesh, the entitlement to the pension after completion of minimum qualifying service of 20 years was 50% of the emoluments. This position was temporarily altered vide notification dated 11.11.2014 and was again restored vide notification dated 12.6.2018, whereby again in the case of Class-III and Class-IV employees, the payable pension after completion of qualifying service of 20 years was 50% of the emoluments.

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

6. The facts are not in dispute. Petitioner retired on 31.8.2017 and admittedly had rendered more than 20 years of service on such date. Prior to 11.11.2014, the Government servant in Himachal Pradesh was made entitled to 50% of the emoluments as pension in case he had rendered more than 20 years of service. The rate was made proportionate to 33 years of qualifying service between the period 11.11.2014 to 12.6.2018, and then the

rate was again restored to 50% of the emoluments for Class-III and Class-IV employees.

7. It also cannot be disputed that the amendment in the rules as made vide notification dated 12.6.2018 was to come into force from the date of its publication in the Rajpatra of Himachal Pradesh.

8. The question thus arises whether the petitioner who had retired on 31.8.2017 would be entitled to the benefit of notification dated 12.6.2018?

9. In my considered view the question deserves to be answered in affirmative for the reason that pension is earned by a government servant in lieu of the services rendered by him. It is the security for which he serves the public besides what he earns by way of monthly emoluments during service. The rules prescribing the norms for disbursement of the amount of pension have to be considered in that perspective. Since it is a beneficial provision for the government servant, therefore, any narrow construction will render the purpose of granting the same otiose.

10. Since, the notification dated 12.6.2018 was for the benefit of an entire class i.e. class III and IV employees of the State Government it could not be construed to benefit only those who would retire after the issuance of the notification for such a classification will clearly be discriminatory. The pension is a recurring benefit to a retired government servant, therefore, the notification dated 12.6.2018 promulgating a beneficial rule will also enure for benefit of petitioner, who still was entitled to pension on the date of such promulgation.

11. In result, the petition is allowed. The respondents are directed to re-fix the pension of the petitioner in accordance with the notification dated 12.6.2018 w.e.f. the date on which said notification has come into force. Needful, including payment of arrears to petitioner, be done within eight weeks from the date of passing of this judgment.

12. The petition is accordingly disposed of so also the pending application(s), if any.

28th August, 2023
(kck)

(Satyen Vaidya)
Judge