

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.1232 of 2023
Decided on:18.04.2023

Kailash Chand Petitioner

Versus

The Himachal Pradesh Tourism Development
 Corporation Ltd. & Another ...Respondents

Coram:

Hon'ble Ms. Justice Sabina, Acting Chief Justice.
Hon'ble Mr. Justice Satyen Vaidya, Judge.

Whether approved for reporting?

For the petitioner : Mr. Om Parkash Goel, Advocate.

For the respondents : Mr. Naresh Kaul, Advocate.

Sabina, Acting Chief Justice (Oral).

The petition has been filed by the petitioner, seeking
 the following reliefs: -

“a) That the writ of mandamus may please be issued and the respondents may kindly be directed to release the due and payable retiral benefits to the petitioner along with interest on the entire amount of Gratuity and Leave Encashment from due date till the date of its realization on account of delayed period payments, in terms of the law settled by the Hon'ble Supreme Court vide judgments mentioned supra and judgments 11.08.2020 and 06.12.2022 passed by this Hon'ble High Court in CWP No.2783/2020 titled as Rulia Ram Vs HPTDC and

Anr., Annexure P-3 and CWP No.7760/2022 titled Manender Kumar Vs HPTDC and others Annexure P-4 respectively and even otherwise on the facts and law as stated in the petition and the same may kindly be allowed with costs in the interest of law, equity and justice.

b) That the action of the respondents in withholding or not releasing the retiral benefits of the petitioner from due date i.e. 01.04.2022 till the date of its realization may kindly be held as illegal, arbitrary and discriminatory and violative of Article 14 and 16 of the Constitution of India.”

2. The petitioner was in service of the respondent Himachal Pradesh Tourism Development Corporation Ltd. and retired as Captain on 31.03.2022 from Hotel Iravati, HPTDC, Chamba, H.P., after rendering 32 years and 11 months of regular service. It is the case of the petitioner that, although, the respondents have calculated and sanctioned gratuity in his favour, amounting to Rs.07,96,836/-, vide Annexure P-1, but have only paid Rs.1,00,000/- on account of gratuity to him and the balance amount of gratuity has not been paid to him by the respondents till date. It is also the case of the petitioner that the respondents have calculated and sanctioned Rs.04,18,540/- as leave encashment in his favour, vide Annexure P-2, but have

not released the amount of leave encashment to him. The grievance of the petitioner is that despite the aforesaid gratuity and leave encashment being sanctioned, the same have not been released.

3. In the facts and circumstances of the case, we dispose of the writ petition by directing the respondents to release the admissible retiral benefits alongwith statutory interest to the petitioner within a period of six months from today, in accordance with law. If the amount due is not paid within the aforesaid period, the same shall carry interest at the rate of 9% per annum from the due date of actual payment.

4. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(Sabina)
Acting Chief Justice**

**April 18, 2023
(Yashwant)**

**(Satyen Vaidya)
Judge**