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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 08th February, 2023*

+ **W.P.(C) 1625/2023**

JAIDEV SINGH KAPOOR

..... Petitioner

Through: **Ms. Mohini Singh, Advocate.**

versus

**GURU HARKRISHAN PUBLIC SCHOOL (NEW DELHI)
SOCIETY AND ORS.**

..... Respondents

Through: **Mr. Abinash K. Mishra and
Mr. Gaurav Kumar Pandey, Advocate for
R-1 and 2.**

Ms. Latika Choudhury, Advocate for R-3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

CM APPL. 6170/2023 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. Present writ petition has been filed seeking the following reliefs:-

a) Issue a writ of mandamus, order or direction, directing the Respondent No. 1 & 2 to release the terminal benefits to the Petitioner which includes gratuity as per revised norms, leave encashment, along with 40% salary from April 2020 to February 2021 along with interest till realization;

b) Issue a writ of mandamus, order or direction, directing the Respondent No.3 to prepare due and drawn statement of the Petitioner with respect to all arrears including terminal benefits, gratuity, leave encashment, interest, etc.

4. Petitioner was appointed as Clerk-cum-Typist on probation

Signature Not Verified in Respondent No.2/School on 03.02.2023 and was subsequently

confirmed. Petitioner retired on superannuation on 31.08.2022 but was not paid Gratuity and Leave Encashment. Along with other employees, Petitioner filed a writ petition being W.P.(C) 12007/2019 for grant of pay revisions under 6th and 7th Central Pay Commissions ('CPC'), which was allowed with the batch of petitions decided on 16.11.2021 titled '**Shikha Sharma v. Guru Harkrishan Public School & Others**'.

5. On 28.09.2022, Petitioner sent an e-mail to Respondent No. 2 requesting for release of terminal benefits, followed by several reminders on 10.10.2022, 31.10.2022, 06.12.2022 and 03.01.2023. Getting no favourable response, Petitioner has filed the present writ petition.

6. The grievance of the Petitioner in the present writ petition is that till date, the School has not released the terminal benefits of the Petitioner such as Gratuity and Leave Encashment, which the Petitioner was entitled to immediately upon retirement. Additionally, it is also the case of the Petitioner that 40% salary from April, 2020 to February, 2021 is also unpaid *albeit* two cheques of Rs.5,207/- each were given to the Petitioner towards the arrears of 40% salary and the remaining is still outstanding.

7. Issue notice.

8. Counsels, as above, accept notice on behalf of the Respondents.

9. Learned counsel for the Directorate of Education supports the case of the Petitioner while learned counsel appearing for the School submits that the outstanding dues of the Petitioner shall be released as expeditiously as possible.

10. As per the Petitioner, the reliefs sought in the present petition are covered by several judgments of this Court including the cases of **Kanwaljit Kaur v. Director of Education & Ors.** and **Veena Kumari**

Sood v. Director of Education & Ors., in W.P. (C) Nos. 12209/2021 and 12014/2021, respectively, decided on 24.08.2022. Counsels for the Respondents are unable to dispute the said position.

11. Having heard the counsels for the parties, this Court finds merit in the contentions raised by the Petitioner that upon retirement, the Petitioner was entitled to the benefits of Gratuity, Leave Encashment etc. as per the 6th and 7th CPC as also the arrears of the 40% salary for the period i.e. from April, 2020 to February, 2021 and to the extent of terminal benefits, the case of the Petitioner is covered by the judgments in *Shikha Sharma (supra)* and *Kanwaljit Kaur (supra)*.

12. It is accordingly directed that the School shall release the Gratuity payable to the Petitioner in accordance with the ceiling limit prescribed under the Payment of Gratuity Act, 1972 as also the Leave Encashment payable to the Petitioner. The amounts shall be disbursed within a period of eight weeks from today. School is also directed to forward the calculations of the amounts paid, to the Petitioner and it will be open to the Petitioner to point out discrepancy, if any, on the amounts disbursed. Likewise, 40% of the salary from April, 2020 to February, 2021 shall also be paid within three months from today and to the extent the payments have been made, if any, the same shall be deducted by the School and calculations in that regard shall be sent to the Petitioner.

13. Writ petition is disposed of with the aforesaid directions.

JYOTI SINGH, J

FEBRUARY 08, 2023/rk/shivam