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

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Date of Decision: 30th May, 2023

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+ W.P.(C) 2827/2022 & CM APPL. 8150/2022

MR. AJEET KUMAR AND ORS Petitioner
Through: Mr. Chetan Anand, Mr. Akash
Srivastava and Ms. Tejaswini Singh,
Advocates

versus

GURU HARKRISHAN PUBLIC SCHOOL KALKAJI
BRANCH AND ORS. Respondents
Through: Mr. Abinash K. Mishra,
Advocate for R-1 & 2.
Mr. V. Balaji, Advocate for DoE.
Ms. Latika Choudhury, Advocate for DoE.

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+ W.P.(C) 2846/2022 & CM APPL. 8201/2022

MRS. AMARJEET KAUR AND ORS. Petitioner
Through: Mr. Chetan Anand, Mr. Akash
Srivastava and Ms. Tejaswini Singh,
Advocates

versus

GURU HARKRISHAN PUBLIC SCHOOL KALKAJI
BRANCH AND ORS. Respondents
Through: Mr. Abinash K. Mishra,
Advocate for R-1 & 2.
Ms. Latika Choudhury, Advocate for DoE.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH



JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present writ petitions have been filed seeking the following reliefs:-

W.P.(C) 2827/2022

“i. issue of writ, order or directions in the nature of mandamus or any other appropriate writ, order or directions directing the Respondents no. 1 to 2 to fix the pay scale of the Petitioners as per the guidelines of 6th Pay Commission and release the arrears of 6th pay commission alongwith the Transport allowance (T.A.) for the period September 2008 to December 2015 and arrears of Transport Allowance and Dearness Allowance (D.A) as applicable along with interest@ 15% p.a.,

ii. issue of writ, order or directions in the nature of mandamus or any other appropriate writ, order or directions directing the Respondents no. 1 to 2 to implement 7th Pay Commission and after the fixation of pay scale in accordance with the 7th Pay Commission release the arrears of 7th pay commission along with interest@ 10% p.a.;

iii. issue of writ, order or directions in the nature of mandamus or any other appropriate writ, order or directions directing the Respondents no. 1 to 2 to release the arrears of salary ie. 40% of the salary which have not been released till date for the period April 2020 to February 2021 along-with pay-slips and release transport allowance (T.A.) for the period June 2020 till the filing of the present petition and arrears of applicable Dearness Allowance;

iv. Pass an order directing the Respondents no. 1 to 2 to pay/release the salaries in full (inclusive of T.A. and D.A.) to the petitioners on or before 7th day of every calendar month.”

W.P.(C) 2846/2022

“i. issue of writ, order or directions in the nature of mandamus or any other appropriate writ, order or directions directing the Respondents no. 1 to 2 to fix the pay scale of the Petitioners as per the guidelines of 6th Pay Commission and release the arrears of 6th pay commission alongwith the Transport allowance (T.A.) for the period September 2008 to December 2015 and arrears of Transport Allowance and Dearness Allowance (D.A) as applicable along with interest@ 15% p.a.,

ii. issue of writ, order or directions in the nature of mandamus or any other appropriate writ, order or directions directing the Respondents no. 1 to 2 to implement 7th Pay Commission and after the fixation of pay scale in accordance with the 7th Pay Commission



release the arrears of 7th pay commission along with interest@ 10% p.a.;

iii. issue of writ, order or directions in the nature of mandamus or any other appropriate writ, order or directions directing the Respondents no. 1 to 2 to release the arrears of salary ie. 40% of the salary which have not been released till date for the period April 2020 to February 2021 along-with pay-slips and release transport allowance (T.A.) for the period April 2020 till the filing of the present petition and arrears of applicable Dearness Allowance;

iv. Pass an order directing the Respondents no. 1 to 2 to pay/ release the salaries in full (inclusive of T.A. and D.A.) to the petitioners on or before 7th day of every calendar month.”

2. Petitioners are serving employees of Guru Harkrishan Public School/Respondent No. 1 herein (hereinafter referred to as the ‘School’) and the grievances ventilated in the present writ petitions pertain to non-payment of arrears of salaries and emoluments on account of pay revisions under 6th and 7th CPC along with Transport Allowance and Dearness Allowance as well as release of the arrears of 40% of balance salary for the period April, 2020 to February, 2021. It is the case of the Petitioners that it is the statutory obligation of the School to implement the recommendations of 6th and 7th CPC in entirety and despite the directions of this Court in several writ petitions as well as circulars issued from time to time by Directorate of Education (‘DoE’) in this behalf, the School has failed to act.

3. Learned counsel for the Petitioners urges that the case of the Petitioners is squarely covered by the judgment of this Court in ***Shikha Sharma v. Guru Harkrishan Public School & Ors, 2021 SCC OnLine Del 5011*** and directions be issued to the School to release the pending arrears of pay revisions under 6th and 7th CPC along with TA, DA as well as 40% of the balance salaries.



4. Mr. Mishra, learned counsel representing the School is unable to dispute that the case of the Petitioners is covered on all four corners by the judgment of this Court in ***Shikha Sharma (supra)*** and/or it is the obligation of the School to revise the pay of the Petitioners in consonance with the recommendations of the Pay Commissions. Counsels for DoE support the case of the Petitioners and submit that DoE has issued several circulars from time to time directing the Schools to follow the mandate of law and abide by the recommendations of the 6th and 7th CPC and the claims of the Petitioners are justified and covered by the judgment in ***Shikha Sharma (supra)***.

5. Having heard the learned counsels for the parties, this Court finds merit in the contention of the Petitioners that the reliefs sought in the present writ petitions are covered by the judgment in ***Shikha Sharma (supra)***, relevant passages from which are as follows:

“26. So, it is clear that the pay and allowances of the employees of unaided minority Schools cannot be less than those of the employees of the Government run Schools. There is no dispute that the benefits of 6th and 7th CPC have been given to the employees of the Government run Schools. If that be so, the employees of the unaided minority Schools are also entitled to get the benefits of the recommendations as made by the 6th and 7th CPC reports. So, this plea of Mr. Abinash Kumar Mishra is liable to be rejected. The plea of Mr. Mishra, that till such time the DoE grants approval to the Schools to collect the arrears of fees, the Schools must not be directed to pay the benefits of 7th CPC is concerned, the same is unmerited. The employees are entitled to equal pay and other benefits, by operation of Section 10 of the DSE Act, in other words, by operation of law, the said benefits are payable. The same does not pre-suppose the approval being granted by the Director to the Schools to claim higher fee or arrears thereof.

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28. Following the aforesaid judgment, even this Court in the case pertaining to grant of arrears of salary also granted similar reliefs to the petitioners in *Shashi Kiran v. Siddharth International Public School*, W.P.(C) No. 2734/2021; *Rambir Singh Malik v. Greenfields*



Public School, W.P.(C) 9486/2020; and Inderpreet Kaur v. Directorate of Education, W.P.(C) 4127/2020. This Court in a recent judgment in the case of Amrita Pritam v. S.S. Mota Singh Junior Model School, W.P.(C) 1335/2019 dated September 22, 2021 has granted the benefits of the 7th CPC along with arrears to the petitioners therein. I may state here that an appeal has been preferred against the said judgment being S.S. Mota Singh Junior Model School v. Directorate of Education, Government of NCT of Delhi LPA 399/2021, however, the Division Bench has not stayed operation of the judgment in W.P.(C) 1335/2019 dated September 22, 2021. That apart, I find despite giving an undertaking to this Court and also this Court passing orders from time to time, unfortunately the benefits of the 6th CPC have not been granted. This Court is of the view that, apart from the undertaking given and also in view of the orders passed in the petitions referred to above, the petitioners are entitled to the benefits of the 6th and 7th CPC in law as well.

29. Accordingly, these writ petitions need to be allowed and the respondent/DSGMC/GHPS Society/GHPS are directed to, re-fix the salaries and other emoluments of the petitioners under 6th and 7th CPC in accordance with the rules. It is made clear that the DSGMC/GHPS Society shall ensure the compliance of the orders passed by this Court. I take note of the submission made by Mr. Misra that neither DSGMC nor the GHPS Society in any case have any statutory liability under the provisions of the DSE Act/Rules to grant the benefits of the 6th and 7th CPC but the fact remains that the DSGMC was being represented by their functionaries in these proceedings and even the undertakings were given on behalf of DSGMC in the proceedings before this Court and as such cannot absolve itself, from ensuring that the benefits of the 6th and 7th CPC are given to the petitioners. This direction is in the facts of the cases more specifically where the claim of the petitioners is with regard to the grant of the benefit under the 6th and 7th CPC and connected issues. The petitioners shall also be entitled to arrears of pay in view of fixation of their pay under the 6th and 7th CPC, upto the date of payment subject to adjustment of salary already paid.

30. The arrears thereof under the 6th CPC shall be paid to the petitioners with interest at the rate of 6% per annum. The arrears of 7th CPC shall not carry any interest. The fixation of pay and arrears shall be made/paid within a period of six months from today.

.....
It is made clear that the failure to pay the amounts within six months as directed above shall entail payment of a higher interest of 9% per annum on the arrears of both 6th and 7th CPC and retiral benefits.”



6. It is pertinent and relevant to mention at this stage that in both the writ petitions School has filed due and drawn statements as well as tabular presentation to show that arrears of 6th CPC i.e. for the period 01.01.2006 to 31.12.2015 have already been released to the Petitioners and there is nothing outstanding, save and except, TA/DA which shall be disbursed after calculations are made by DoE as per the directions of the Court in ***Shikha Sharma (supra)***. This fact is not disputed by the Petitioners.

7. Accordingly, the writ petitions are allowed, directing the School to re-fix the salaries and other emoluments of the Petitioners under 7th CPC and release the arrears thereof including balance of the 40% salaries, wherever and for the period for which they are due. *Albeit* arrears of 6th CPC have been released to the Petitioners, however, Petitioners are also entitled to interest @ 6% p.a. on delayed payments and the School is directed to make calculation of the interest amounts and release the due payments. The arrears of 7th CPC shall not carry any interest. The entire exercise of re-fixation of pay as per 7th CPC and payment of arrears/release of balance salaries shall be completed within a period of four months from today. On failure to pay the amounts within four months as directed above, Petitioners shall be entitled to interest at the rate of 9% p.a. on arrears of 7th CPC.

8. On the issue of TA and DA, the Court in ***Shikha Sharma (supra)*** passed the following directions:

“31. On the issue of grant of transport allowance/dearness allowance, the DoE in consultation of the GHPS in which petitioners, who sought such relief are working shall pass order, by considering the orders in the cases being CONT. CAS.(C) 46/2016 dated January 09, 2017 and in W.P.(C) 2132/2011 dated March 06, 2013 and instructions, if any, and convey the decision to those petitioners, within 10 weeks from today. Similarly, the claim of some petitioners for MACP in W.P.(C) 6407/2018, W.P.(C) 11152/2019



and W.P.(C) 12006/2019 shall be decided by the DoE in consultation with the GHPS in which the petitioners, who sought such relief are employed and convey the same to those petitioners, within 10 weeks from today. If the benefits are payable, the same shall be released to the petitioners within six months thereafter.”

9. The School is directed to take a decision with respect to TA/DA in accordance with the aforesaid directions, within 8 weeks from today and necessary action will be taken to release the payments in consonance with the decision taken within six weeks thereafter.

10. Writ petitions stand disposed of in the aforesaid terms. Pending applications also stand disposed of.

MAY 30, 2023/shivam

JYOTI SINGH, J

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