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

% *Date of Decision: 05th April, 2023*

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+ W.P.(C) 7568/2018

GURVINDER SINGH SAINI Petitioner

Through: Mr. Rohit Bhagat and
Mr. Saurabh Chadda, Advocates.

versus

SHRI MANJIT SINGH G.K. & ORS. Respondents

Through: Mr. Abinash Kumar Mishra
Advocate R-1, 4 and 5.

Mr. Naushad Ahmed Khan, Advocate for
DoE.

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+ W.P.(C) 4968/2019

GURVINDER SINGH SAINI Petitioner

Through: Mr. Rohit Bhagat and
Mr. Saurabh Chadda, Advocates.

versus

GURU HARKRISHAN PUBLIC SCHOOL

AND ORS. Respondents

Through: Mr. Abinash Kumar Mishra,
Advocate for R-1 to 3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

W.P.(C) 7568/2018

1. This writ petition has been filed by the Petitioner seeking arrears of pay revision under the 6th Central Pay Commission (CPC) along with interest @ 24% per annum.

2. Petitioner was working as Assistant Director (Sports) in Guru Harkrishan Public School, Vasant Vihar in 2009 and filed a writ

petition being W.P.(C) 12372/2009 in this Court seeking
W.P.(C) 7568/2018 and connected matter

Page 1 of 6

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Signing Date: 23.04.2023
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implementation of 6th CPC Recommendations in terms of Section 10 of Delhi School Education Act, 1973. The writ petition was allowed on 02.09.2011, directing the Respondents to pay the arrears by 31.03.2012. An appeal was filed before the Division Bench and by a judgment dated 05.09.2012, the Division Bench upheld the judgment of the learned Single Judge. Due to non-compliance of the judgment, a Contempt Petition was filed in 2012. Matter was carried by the School to the Supreme Court, however, SLP (C) No.33852/2012 was dismissed.

3. Petitioner was transferred to Guru Harkrishan Public School, Hari Nagar on 01.01.2015 and thereafter made several representations for implementation of the judgments and release of arrears of salary but to no avail. Some payments were thereafter made by the School but the same were not in consonance with the 6th CPC Recommendations and/or the judgments of this Court. Calculations were furnished to the Petitioner which, according to him, indicated several discrepancies such as non-payment of salary from 17.06.2013 to 08.08.2013, transport allowance from September, 2008 to March, 2017, bonus, LTC, etc.

4. Learned counsel for the Petitioner submits that the School has scant regard for the orders of this Court and is not fulfilling the statutory obligation of paying the salary and allowances in accordance with 6th CPC Recommendations, compelling the Petitioner to approach the Court for enforcement and implementation of the recommendations.

5. Mr. Mishra, appearing on behalf of the School, submits that an affidavit has been filed on 20.02.2019 and thereafter on 25.09.2019 giving the details of the payments released to the Petitioner and explaining the reasons for delay in paying. It is submitted that the School had implemented recommendations of 6th CPC from

01.05.2014 and payments were released. Transport allowance was not paid from May, 2014 to March, 2017 which was, however, calculated subsequently as amounting to Rs.2,45,664/- and was paid. Petitioner is already receiving his monthly salary as per 6th CPC and the arrears from January, 2006 to April, 2014 amount to Rs.9,52,708/- out of which large part of the amount was released. He further assures the Court that all the outstanding arrears, if any, shall be released to the Petitioner shortly.

6. Mr. Mishra further points out that Petitioner has placed on record certain calculations of the amounts payable, which is supported by the calculations made by the Directorate of Education. Having gone through the calculation sheet, there are certain discrepancies as all the amounts claimed by the Petitioner are not payable and therefore permission be granted to the School to give its own calculations to the Petitioner so that the matter can be mutually resolved.

7. There is no gainsaying that 6th CPC recommendations are to be implemented from 01.01.2006 and despite a passage of nearly 17 years and judgments in favour of the Petitioner, he is struggling to get the arrears of revision of pay and correct fixation of his salary and allowances.

8. Writ petition is accordingly allowed, directing the School to release forthwith all the outstanding payments towards the Petitioner on account of pay revision in the salary and allowances under 6th CPC. It is open to the School to point out to the Petitioner if there are any discrepancies in the calculations furnished by him and it is open to the Petitioner to respond to the same. It is hoped and expected that the matter will be amicably resolved and all the outstanding dues will be cleared at the earliest and Petitioner will not be compelled to knock the doors of the Court again.

9. Writ petition stands disposed of.

W.P.(C) 4968/2019

10. By this writ petition, Petitioner seeks implementation of the recommendations of the 7th CPC w.e.f. 01.01.2016.

11. It is contended on behalf of the Petitioner that Petitioner and Respondent No.1/School are governed by the Delhi School Education Act and Rules, 1973 and therefore bound to abide by the provisions of Section 10(1) of the said Act. The Directorate of Education passed orders on 25.08.2017 for implementation of 7th CPC for employees of recognized unaided private schools in Delhi from 01.01.2016 along with arrears and on 17.10.2017, guidelines were issued to the School managements for implementation. The grievance is that despite passage of nearly 7 years from the recommendations of the 7th CPC and the directives of the Directorate of Education in 2017 as well as several representations made by the Petitioner to the School, benefit of pay revision under 7th CPC has not been granted to him.

12. Learned counsel for the Petitioner submits that this issue is no longer *res integra* and is covered by several judgments of this Court such as ***Shikha Sharma v. Guru Harkrishan Public School & Ors, 2021 SCC OnLine Del 5011, Maninder Kaur Sawhney v. Education Department and Others, 2023 SCC OnLine Del 563***, etc.

13. Having heard the learned counsels for the parties, this Court finds merit in the contentions of the Petitioner that he is entitled to pay revision under the 7th CPC and consequent refixation of the salary and release of arrears. Relevant paras of the judgment in ***Shikha Sharma (supra)*** 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. All retiral benefits shall also be fixed and released to the petitioners, who have retired from their service within six months from today. As an immediate assistance, the respondents/DSGMC/GHPS Society/GHPS shall release an amount of Rs. 5 Lacs to each of the retirees within one month, subject to adjustment at the time of full payment. 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.

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.”

14. The writ petition is accordingly allowed directing the School to refix the salary and emoluments of the Petitioner in accordance with the 7th CPC recommendations, embodied in CCS (Revised Pay) Rules, 2016. Arrears of the salary and emoluments shall be paid within a period of six months from today. Decision on payment of TA/DA shall be taken by the School in accordance with the directions issued in the judgment of **Shikha Sharma (supra)**. In case the arrears are not released within the time granted by the Court, interest @ 9% p.a. shall be paid by the School till the actual date of payment.

15. Writ petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

APRIL 05, 2023/kks