IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 8776 of 2023.

Reserved on 6th March, 2024.

Date of Decision : 12th March, 2024.

Surya Prakash **...Petitioner.**

Versus

State of H.P. & Ors. ....**Respondents.**

Coram:

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

Whether approved for reporting?[1] *Yes.*

For the Petitioner: Mr. Romesh Verma, Senior Advocate, with Mr. Digvijay, Advocate.

For the Respondents: Mr. Aman Deep Sharma and Mr. L.N. Sharma, Addl. Advocates General with Ms. Avni Kochhar, Dy. A.G.

Satyen Vaidya, Judge.

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

> *"(a) That the respondents may be directed to release revised salary for the period of twenty six months in favour of the petitioner.*
>
> *(b) That the respondents may be directed to release the revised pensionary benefits to the petitioner*

[1] Whether reporters of the local papers may be allowed to see the judgment?

i.e. commuted amount, DCRG, leave encashment, pension arrears from the due date.

(c) *That the respondents may be directed to release the revised salary and revised pesionary benefits to the petitioner along with interest @12% per annum.*

(d) *That the respondents may be directed to pay and release the revised pension, gratuity and leave encashment and the same shall be paid to the petitioner alongwith interest @12% per annum."*

2. Petitioner served the Department of Agriculture, Government of Himachal Pradesh for about 38 years and retired on 28th February, 2018 as Junior Engineer from the office of Sub Divisional Soil Conservation, Shimla.

3. Government of Himachal Pradesh notified Himachal Pradesh Civil Services (Revised Pay) Rules, 2022 vide notification dated 3rd January, 2022, whereby, the revision of pay came into force w.e.f. 01.01.2016. State Government also issued office memorandum dated 25th February, 2022, whereby Rules regulating pension, retirements/death/Service Gratuity and Family Pension under the C.C.S.(Pension) Rules 1972 and the Commutation of

Pension under the CCS (Commutation of Pension) Rules, 1981, were revised/modified.

4. Petitioner also became entitled to the benefit of revision of pay w.e.f. 01.01.2016 in terms of Himachal Pradesh Civil Services (Revised Pay) Rules, 2022 and for revised gratuity, leave encashment and commutation on pensionary benefits in terms of office memorandum dated 25th February, 2022.

5. Since, the petitioner till date has received only partial amount out of the due and admissible amount in terms of aforesaid revisions, he has approached this Court for directions as noticed above.

6. Respondents have filed the reply. They have not denied the claim of petitioner. The financial constraints and lack of resources have been put up as defence for non payment of amount due to petitioner. It has been submitted that the State Government is in the process of gradually wiping out its liability towards the payment of dues of its employees on account of revision of pay scales as also modification in the Rules regulating pension, retirements/death/Service Gratuity and Family Pension under

the C.C.S.(Pension) Rules 1972 and the Commutation of Pension under the CCS (Commutation of Pension) Rules, 1981.

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

8. In view of the admission made by respondents, there is no difficulty or impediment in granting the prayers made in the petition. The only question that remains to be answered is whether the pensionary and allied benefits as envisaged under Revised Pay Rules, 2022 and office memorandum dated 25th February, 2022, can be withheld by the State Government for indeterminate period on the pretext of lack of resources. The questions needs to be answered in negative for the simple reason that once legally vested right accrues to a serving or retired government employee, the same cannot be denied or even withheld that too for an indefinite period. Further more, the pensionary benefits including gratuity, leave encashment and commutation enure as security to a retired government employee, who has toiled for substantial part of his life by rendering public service at the cost of his flesh and blood with the hope and under a promise to secure his and his family's future after retirement.

More often than not, the retiral benefits to a retired government employee are the only source of bread and butter. Once, the government has announced the grant of aforesaid benefits to its employees, the same can neither be subsequently denied nor delayed for indeterminate period more particularly on the pretext of financial constraints. The State Government is under legal obligation to fulfill its promise.

9. Recently, in ***Punjab State Cooperative Agricultural Development Bank Limited vs. Registrar Cooperative Societies and others, (2022)4 SCC 363,*** the Hon'ble Supreme Court has observed as under:-

> *"57. In our view, non availability of financial resources would not be a defence available to the appellant Bank in taking away the vested rights accrued to the employees that too when it is for their socio economic security. It is an assurance that in their old age, their periodical payment towards pension shall remain assured. The pension which is being paid to them is not a bounty and it is for the appellant to divert the resources from where the funds can be made available to fulfill the rights of the employees in protecting the vested rights accrued in their favour."*

10. In identical fact situations, on earlier occasions also an Hon'ble coordinate bench of this Court in CWP No. 6611 of 2023, titled as Surinder Singh vs. State of H.P. & Anr., decided on 19th September, 2023 and CWP No. 5651 of 2023, titled as Dr. Sunil Kumar Chandel & Ors. vs. State of H.P. & Ors, decided on 26th September, 2023, has negated the contention raised by State Government and the directions have been issued to the State Government to pay the due and permissible amounts to the petitioners in terms of Revised Pay Rules, 2022 and OM dated 25th February, 2022, within six weeks from the date of passing of judgment along with interest @ 6% per annum.

11. This Court does not find any reason to take a view different than the one taken by a coordinate bench of this Court while deciding aforesaid CWP Nos. 6611 of 2023 and 5611 of 2023.

12. Accordingly, the instant petition is allowed and the respondents are directed to pay the balance of due and permissible amount to the petitioner in terms of Himachal Pradesh Civil Services (Revised Pay) Rules, 2022, and office memorandum dated 25th February, 2022, whereby Rules

regulating pension, retirements/death/Service Gratuity and Family Pension under the C.C.S.(Pension) Rules 1972 and the Commutation of Pension under the CCS (Commutation of Pension) Rules, 1981 were modified, alongwith interest @ 6% per annum within six weeks from the date of passing of this judgment. Petition stands disposed of accordingly.

13. Pending applications, if any, also stand disposed of.

(Satyen Vaidya)
Judge

12th March, 2024.
(jai)