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

\+ W.P.(C) 6331/2024

MANJIT KAUR .....Petitioner

Through: Mr. Ankit Singh Sinsinwar, Mr. Sunil Singh, Mr.Mahesh Nagar and Ms. Shubhangi Sharma, Advocates.

versus

GURU HARKRISHAN PUBLIC SCHOOL & ORS......Respondents

Through: Mr. Abinash Kumar Mishra, Advocate for Respondents No.1 and 2.
None for Respondent No.3/DOE.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

<u>O R D E R</u>

% **05.08.2024**

1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:

"(a) A Writ of Certiorari calling for the records of the case for perusal;

(b) A Writ of certiorari quashing the action of the Respondent No. 1 and 2 in not releasing 7th CPC arrears of the Petitioner and balance travelling allowance and honorarium amount, alongwith interest accrued thereupon, being illegal, arbitrary, discriminatory, unjust, unwarranted, without jurisdiction and in violation of the Rules, Regulations and the Act and the Principles of Equity, Justice and Good Conscience;

(c) A Writ of mandamus directing the Respondent Nos. 1 and 2 to forthwith release 7th CPC arrears of the Petitioner alongwith 9% interest (in terms of Judgment/Order dated 25.03.2022) accrued thereupon.

(d) A Writ of mandamus directing the Respondent Nos. 1 and 2 to release balance travelling allowance of the Petitioner alongwith 9% interest (in terms of Judgment/Order dated 25.03.2022) accrued thereupon.

(e) A writ of mandamus directing the Respondent No. 1 and 2 to release Rs.50,000 honorarium amount to the Petitioner for the period ranging

from April 2020 to January 2021 alongwith 9% interest (in terms of Judgment/Order dated 25.03.2022) accrued thereupon.

(f) A writ of mandamus commanding the Respondents to pay the costs of this Petition to the Petitioner.

(g) Any other writ, order or direction, which may be deemed fit and proper in the facts and circumstances of the case and in the interest of justice."

2. Petitioner was working with Respondent No.1 School as an Accountant till 16.07.2019 when she was sent on deputation in the office of Chief Coordinator (Executives), DSGMC with immediate effect and Rs.5,000/- per month was payable to her as deputation allowance. It is averred that Petitioner received her salary along with deputation allowance till March, 2020. Owing to COVID-19 Pandemic, in the year 2020 some of the teachers in the School filed writ petitions being W.P.(C) 3703/2020 and W.P.(C) 8967/2020 for grant of salaries. 60% of the salaries were released to the teachers including the Petitioner for the months April, 2020 till February, 2021 *albeit* without annual increment due in July, 2020. Thereafter, balance salaries were released till October, 2021.

3. It is further averred that Petitioner superannuated on 31.10.2021 and received salary from March, 2021 to 31.10.2021. A batch of petitions were decided by this Court vide judgment dated 16.11.2021 titled ***'Shikha Sharma v. Guru Harkrishan Public School and Others, 2021 SCC OnLine Del 5011',*** directing the School to release the benefits of pay revisions under 6th and 7th CPC along with retiral benefits, wherever due. Directions were also passed with respect to Travelling Allowance and financial upgradations under the MACP Scheme. As Petitioner was similarly placed, she also filed a petition being W.P.(C) 258/2022, which was disposed of on 25.03.2022 holding the Petitioner entitled to pay revision under 7th CPC. Directions

were issued *inter alia* to fix the retiral benefits and release the arrears within 6 months, subject to adjustment of the salary paid.

4. It is stated that despite the directions of the Court, School has not cleared the complete dues of the Petitioner inasmuch as arrears of pay revision under 7th CPC; deputation allowance for the period April, 2020 to January, 2021; and some amounts towards Travelling Allowance are outstanding.

5. Issue notice.

6. Mr. Abinash Kumar Mishra, learned counsel accepts notice on behalf of Respondents No.1 and 2.

7. Learned counsel for Respondents No.1 and 2 submits that after the direction of this Court in W.P.(C) 258/2022, all arrears of pay revision under 6th CPC have been released to the Petitioner and insofar as 7th CPC is concerned, the matter is *sub-judice* before the Contempt Court in a batch of petitions as also before the Division Bench for the purpose of working out the modalities of payments. Insofar as non-payment of deputation allowance is concerned, it is submitted that the matter will be examined.

8. Learned counsel for the Petitioner, on instructions, does not dispute the receipt of arrears of pay revision under 6th CPC. He, however, submits that there is no plausible explanation for non-payment of deputation allowance as the Petitioner was sent on deputation and this is evident from email dated 16.07.2019, which is placed on record as Annexure 'P-1'. So far as benefit of pay revision/arrears under 7th CPC is concerned, learned counsel does not dispute that the matter is under consideration before the Coordinate Bench but seeks to argue that in these circumstances, School has itself evolved a policy whereby in special cases where employees are in dire

need of money, payments are being released. It is urged that 'special circumstances' illustratively enumerated under the policy are: (a) medical treatment of children, parents and spouses; (b) child's education; (c) children's marriage; and (d) loan disbursement to avoid sale of property of the staff. Learned counsel submits that the case of the Petitioner deserves a special consideration as her husband expired on 04.08.2023 and the family has no other source of income as she has not received pension. From the meagre resources Petitioner is also paying the rent for the house. Petitioner is in urgent need of funds for the education of her children, who are studying in Canada.

9. I have heard learned counsels for the parties and examined their submissions.

10. Since the grievance of the Petitioner with respect to pay revision and arrears under 6th CPC stands redressed, no order is required to be passed with respect to this claim. Insofar as the deputation allowance is concerned, Petitioner is right in her submission that she was sent on deputation on 16.07.2019 and the terms of deputation clearly provided that she was entitled to Rs.5,000/- per month as deputation allowance. This is evident from email dated 16.07.2019 placed on record and therefore, the School is directed to examine this issue and release the outstanding amount due to the Petitioner towards deputation allowance. Coming to the pay revision and release of arrears under 7th CPC, it is a common ground of the parties that this issue is pending consideration before the Division Bench and batch of contempt petitions before the Coordinate Bench, where modalities are being worked out for payments and it would be inappropriate for this Court to pass any order in that respect. However, there is merit in the contention of the

Petitioner that if the School has itself evolved a policy to look into special circumstances in a given case and pay, there is no reason why the case of the Petitioner should not be examined in the light of the policy which is predicated on sympathetic consideration for cases requiring immediate attention, while the issue of 7th CPC is pending in Court. In this light, direction is issued to the School to consider the case of the Petitioner for release of funds under the policy formulated to consider cases deserving of special consideration.

11. This writ petition is disposed of directing the School to consider the case of the Petitioner under the aforementioned policy within 6 weeks from today. Needless to state that if the Petitioner is found to be covered under the special policy, benefits shall be released to her within 2 weeks from the date of the decision. Similarly, the deputation allowance, if found payable, will be released within 6 weeks from today. In case of any surviving grievance, it will be open to the Petitioner to take recourse to legal remedies, if so advised.

JYOTI SINGH, J

AUGUST 05, 2024
***B.S. Rohella*/kks**