IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPOA No.332 of 2020
Decided on: 06.01.2026

L.R. Kaundal & Others ...Petitioners

Versus

State of Himachal Pradesh & Others ...Respondents

Coram:
Hon'ble Mr. Justice Ranjan Sharma, Judge
[1]*Whether approved for reporting?.Yes.*

For the petitioners: Mr. Ashwani Sharma, Advocate.

For the respondents: Mr. Amit K. Chaudhary, Deputy Advocate General, for respondents No.1 & 2-State.

Mr. Chander Shekhar Thakur, Advocate, for respondent No.3-HPSH&HC.

Ranjan Sharma, Judge

Petitioner, L.R. Kaundal and 50 others having retired from service of Himachal Pradesh State Handicraft and Handloom Corporation, filed an *Original Application No. 5325 of 2016* before State Administrative Tribunal and upon abolition of Tribunal, the matter came to be transferred to this Court, as *CWPOA No.332 of 2020*, seeking the following reliefs:-

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[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

"(i). That the impugned communications dated 19.1.2016 and 17.2.2016 between the Respondents No. 1 and 2 wherein respondent No1 has restricted its liability to the extent of statutory pension only by releasing part of grant in aid to the extent of Rs. 40 lakhs instead of Rs. 87,61,695/- and further directing the respondent Corporation No.3 to consider the case for release of enhanced dearness relief from time to time to its retiree being illegal, violative to Pension Scheme (Annexure A-1) and CCS Pension Rules be declared void abinitio, and hence set aside. Further respondent No.1 i.e. department of finance, Government of H.P. be directed to release entire grant in aid so that the arrears of dearness allowance for the period with effect from July, 2015 to March, 2016 be disbursed to the applicants by respondent Corporation alongwith interest from the date of entitlement till its realization.

(b) That the case of the applicants is *squarely covered by the judgment passed by the Hon'ble High Court in CWP(T) No. 6604 of 2008* and OA No. 1395 of 2016 and hence in accordance with the directions passed in these cases the applicants be made entitled for full pension and respondent No.1 be directed to make necessary provisions for grant in aid so that arrears of dearness allowance for the period with effect

from July, 2015 to March, 2016 be released in their favour.

(c) Further, the respondent No. 1 i.e., Department of Finance be issued with necessary directions for releasing of Grant in aid in favour of respondent Corporation No. 3 so that necessary arrangements be made for the issuance of full pension in favour of applicants i.e., *Statutory Pension and Dearness relief from April, 2016 till date*."

FACTUAL MATRIX:

2. Case set up by Learned Counsel for petitioners is that on 29.10.1999 *[Annexure A-1],* the State of Himachal Pradesh notified a Scheme The Himachal Pradesh Corporate Sector Employees (Pension, Family Pension, Computation of Pension and Gratuity) Scheme 1999 and the Scheme was made applicable from 01.04.1999. This Scheme remained in force till its repeal on 02.12.2014 *[Annexure A-2]*. In the backdrop of said scheme, the case of the petitioners is that they are the retirees of the Respondent No 3-Himachal Pradesh State Handicrafts and Handloom Corporation, who retired from service during the operation and continuance of said scheme w.e.f. 01.04.1999 till

02.12.2004. It is averred that the petitioners had opted for pensionary benefits in terms of the scheme. Based on the Scheme, the Respondent No. 3-Corporation released the pensionary benefits to petitioners from the date of their respective retirements and family pension in cases of death of an employee from time to time. It is averred that the pensionary benefits included release of dearness relief on pension and the same was duly released to the petitioners inaccordance with CCS (Pension) Rules 1972 and the mandate and intent of 1999 Scheme. It is averred that Principal Secretary [Industries] issued a communication on 19.01.2016 *[Annexure A-3],* directing Respondent No.3-Corporation that, in case, the Corporation does not have a corpus to make the recurring payments of dearness relief on pension in view of the non-availability of funds, therefore, the Respondent-Corporation was directed to examine the matter at its own level. It is averred that the communication dated 17.02.2016 *[Annexure A-4]* indicates that 58 employees have retired from

service of Respondent-Corporation between the period from 01.04.1999 to 02.12.2004 and these employees were given basic pension and dearness relief but in view of adverse financial condition /non-availability of funds, Respondent-Corporation was unable to release dearness relief on pension to its pensioners. In view of the weak financial condition, Managing Director of Respondent No 3-Corporation requested the State Authorities to allocate additional funds of Rs 47,61,000/-[Rupees Forty Seven Thousand Sixty One Thousand Only] so that the dearness relief on pension could be released to retirees in order to avoid litigation in the matter. Since nothing was done therefore, the Respondent-Corporation abruptly stopped the dearness relief on pension of petitioners-retirees for period from January-February 2016 onwards. The petitioners submitted a representation on 30.04.2016 *[Annexure A-5],* which was responded by Managing Director of Respondent-Corporation on 12.05.2016 *[Annexure A-6],* stating that dearness relief on pension cannot be granted unless the

funds are released by the State Government.

2(ii). Petitioners relied upon a judgment passed by Co-ordinate Bench of this Court in the case of **B. S. Himalvi versus HPTDC** *[CWP(T) No 6604 of 2008* decided on 16.11.2010, *Annexure A-7]*, to assert that similarly placed retirees of Himachal Pradesh Tourism Development Corporation were held entitled for all pensionary benefits, like pension and dearness relief on pension as revised from time to time in terms of 1999 Scheme and once pensionary benefits and dearness relief on pension was given to retirees of other Corporations, who were governed by the Corporate Pension Scheme, therefore, the petitioners herein, were entitled for similar treatment.

2(iii). Though petitioners have filed the instant petition, claiming restoration, revival and release of dearness relief on pension, which was abruptly stopped by Respondents from January-February 2016 but Learned Counsel for the petitioners states at the bar that dearness relief on pension has been released to the petitioners from the

date of respective retirement or date of death or the date of discharge during the period from 01.04.1999 till 02.12.2004 as revised from time before January 2016 and even beyond July 2022 till day.

In this backdrop, the surviving grievance is against the non-release of dearness relief on pension from January-February 2016 till July 2022.

STAND OF RESPONDENT No3-CORPORATION IN REPLY-AFFIDAVIT:

3. Pursuant to the issuance of notice on 20.10.2016, Respondent No 3-Corporation has filed the Reply-Affidavit dated 18.04.2017, of Managing Director, Handcrafts and Handloom Corporation Limited.

3(i). Reply-Affidavit indicates that the instant petition is not maintainable for the reason that the issue regarding admissibility or inadmissibility of dearness relief relates to a policy decision to be taken by State Government. Reply-Affidavit indicates that Respondent-Corporation was passing through an adverse financial condition and has

accumulated losses to the tune of Rs.1504 lakh as on 31.03.2016 and due to adverse financial conditions, even retired employees are not being given their retiral benefits in time. Reply-Affidavit indicates that in the year 2005, the Respondent Corporation had requested to dis-associate them from the purview of the Scheme in view of adverse financial position. Para 2 of the Reply -Affidavit on merits states that in accordance with the scheme notified by the Government, the respondents have been releasing the basic pension along with dearness relief on pension to the petitioners therefore, Principal Secretary [Industries] sent a communication to Respondent-Corporation on 19.01.2016 [Annexure P-3] that in view of adverse financial condition, the Corporation may take necessary action and in response to this, Managing Director requested the State Authorities on 17.02.2016 *[Annexure P-4/R-1],* for releasing additional funds so as to meet out the liability of pensionary benefits [basic pension and dearness relief on pension to retired employees] but since

no funds were allocated therefore, the dearness relief on pension, of the petitioners-retirees-family pensioners was stopped/discontinued by Respondent Corporation.

In above backdrop, the Corporation has prayed for dismissal of the writ petition.

STAND OF STATE AUTHORITIES IN REPLY-AFFIDAVIT:

4. Pursuant to the issuance of notice, the State Authorities filed a Reply-Affidavit dated 12.04.2017, of Special Secretary [Industries], to the Government of Himachal Pradesh.

4(i). The sum and substance of the Reply-Affidavit is that on 29.10.1999 [Annexure P-1], State Government notified the Himachal Pradesh State Corporate Sector Employees (Pension, Family Pension, Computation of Pension and Gratuity) Scheme, 1999. This Scheme was made applicable from 01.04.1999 and it remained in force till its repeal on 02.12.2024 [*Annexure A-2*] and the claim for dearness relief on pension from 2016 was not tenable, as dearness relief on pension was not a part of Corporate Pension Scheme,

1999 as notified by the State Government.

4(ii). Reply-Affidavit refers to the judgment passed by the Hon'ble Supreme Court in the case of **State of Himachal Pradesh and others versus Rajesh Chander Sood** *[Civil Appeal No. 9750-9819 of 2016,* decided on 28.09.2016], to assert the State-Government cannot be burdened with pensionary liability of the Corporate Sector Employees. In this backdrop, that a prayer was made for dismissing the writ petition.

5. Heard Mr. Ashwani Sharma, Learned Counsel for the petitioner; Mr. Amit K. Chaudhary, Learned State Counsel for respondents 1 & 2; and Mr. Chander Shekhar Thakur, Learned Counsel for the Respondent No.3-Corporation and have gone through the material on record.

ANALYSIS:

6. Taking into account the entirety of facts and circumstances and the material on record, this Court is of the considered view, that abrupt stoppage or discontinuance of Dearness Relief on Pension in case of the petitioners-retires and

family pensioners from the month of January-February 2016 onwards cannot pass the test of judicial scrutiny *and* the claim of the petitioners for restoration, revival and release of dearness relief on pension from January-February 2016 till July-August 2022 carries weight and the *claim is accepted, for the following reasons:-*

STOPPAGE-DISCONTINUATION OF DEARNESS RELIEF ON PENSION DEHORS THE SCHEME UNTENABLE:

6(i). On 29.10.1999, Annexure A-1, *the* State Government notified the HP Corporate Sector Employees (Pension, Family Pension, Computation of Pension and Gratuity) Scheme *[*referred to as Corporate Sector Pension Scheme or 1999 Scheme, herein], deciding that as per Clause 1(2) of Scheme participating Corporate Sector Employees shall be given "all pensionary benefits", which shall be determined in accordance with the CCS (Pension) Rules 1972. Perusal of *Annexure-I* attached to the Scheme names the beneficiary Boards, Corporations and PSU's, which includes Respondent No3-Himachal Pradesh State Handcrafts

and Handloom Corporation to be a part of the said Scheme. Clause 3(g) mandates that Finance Department of State Government shall be the "Pension Sanctioning Authority" in case of the employees who were covered under the said Scheme. Clause 3(h) goes on to show that the Department of Finance or its authorized officers shall be the "Pension Disbursing Authority" of the employees who were governed by the Scheme. Sub-Clause 2 of Clause 3 indicates that the words and expressions which were not defined in this Scheme were to be assigned the same meaning as in Rule 3 of the CCS (Pension) Rules 1972 and Rule 3 of the CCS (Commutation of Pension) Rules 1981. Clause 4 expressly provides that the claim of the employees who retire or die or were discharged will be governed by this Scheme and for deriving benefits under this Scheme, existing employees shall have to opt for benefits under the said Scheme and upon submission of option, employee of the Corporation who were governed by CPF were automatically

to come over-switch over to new scheme, subject to the condition, that such employees deposit CPF amount with the Finance Department. It is only after compliance of these requirements that pensionary benefits, which includes pension and dearness relief on pension was to accrue to the retirees and family pensioners or employees who were discharged from service during the period from 01.04.1999 i.e. date of applicability till 02.12.2004 i.e. date of repeal of the said Scheme, respectively. In order to give effect to the rights and legal entitlements under this Scheme, the Respondents have in one voice and with one action, sanctioned the pension and also released dearness relief on pension to petitioners herein, inaccordance with the CCS (Pension) Rules 1972 and the Scheme. However, the action of Respondents in abruptly "stopping-discontinuing the rights, benefits and legal entitlements i.e. "Dearness Relief on Pension" which was payable to the petitioners from January-February 2016 under the Scheme of 1999 and the CCS (Pension)

Rules 1972 amounts to defeating the intent and object of 1999 Scheme. The impugned action being dehors the Scheme and the CCS (Pension) Rules 1972 cannot form the basis for negating the rights, benefits and the legal entitlements of "Dearness Relief on Pension" which accrue to the petitioners under the Scheme and Rules by acting in an unfair, unreasonable, whimsical and arbitrary manner and therefore, the impugned action is interdicted by this Court.

STOPPAGE-DISCONTINUATION OF DEARNESS RELIEF ON PENSION IGNORING PRINCIPLES OF NATURAL JUSTICE UNTENABLE:

6(ii). Action of the Respondents 1 to 3 *inter-se* in stopping or dis-continuing the "Dearness Relief on Pension" abruptly in case of the petitioners-retirees from January-February 2016 by giving a complete go bye to the principles of natural justice, without giving a prior notice and without affording a personal hearing to the petitioners-retirees and by acting in a capricious manner unknown in law, cannot sustain. Stoppage of dearness relief on pension from January-February

2016 till July 2022 has visited the petitioners-retirees herein with civil consequences. The abrupt stoppage or discontinuance of Relief in Pension cannot be permitted to sustain, unless and until, a prior notice and opportunity of hearing was afforded to petitioners. Nothing has been placed on record by the Respondents to establish that before discontinuing or stopping the dearness relief on pension from January-February, 2016 onwards prior notice and personal hearing was given to the petitioners. In these circumstances, this Court has no hesitation to hold, that the abrupt stoppage or discontinuance of dearness relief on pension of the petitioners-retirees from January-February 2016 till July 2022 cannot pass the test of judicial scrutiny. Accordingly, impugned discontinuance or stoppage of dearness relief on pension is uncalled for and is quashed and set aside.

ABRUPT DISCONTINUATION OF DEARNESS RELIEF ON PENSION RENDERS THE SCHEME NUGATORY AND OTIOSE:

6(iii). In terms of the 1999 Scheme, the

petitioners being eligible and covered under the Scheme were given “all the pensionary benefits” includes pension and dearness relief on pension from respective date of retirement or death or discharge from service between 01.04.1999 i.e. date of applicability till 02.12.2004 i.e. date of repeal of the said Scheme, inaccordance with the CCS (Pension) Rules 1972 and the Scheme. Abrupt “stoppage or discontinuance of “Dearness Relief on Pension” from January-February 2016 amounts to obliterating the rights, benefits and legal entitlement of “Dearness Relief on Pension” and the Impugned action amounts to rendering the Scheme as ineffective, nugatory and otiose. Abrupt stoppage of dearness relief on pension amounts to “defeating the protection and the rights, benefits and the legal entitlements which “were saved” “and “were to be continued” by the State Government in case of the petitioners while repealing the 1999 Scheme on 02.12.2004 {Annexure P-2}. Once the Scheme remains in vogue qua the petitioners herein, despite its

repeal therefore, the rights, benefits and legal entitlements which had accrued and vested under 1999 Scheme and CCS (Pension) Rules 1972 cannot be permitted to be rendered inoperative or nugatory and otiose, as has been done in instant case. Till the time the Scheme exists, "all pensionary benefits" i.e. pension, dearness relief on pension and other benefits admissible under the Scheme cannot be restricted at the whims and mercy of the Respondents and the impugned action cannot sustain.

CONTENTIONS OF RESPONDENTS COUNSEL UNTENABLE:

6(iv). Plea of the Respondent No.3-Corporation in Reply-Affidavit is that the issue as to whether the Dearness Relief on Pension is to be given or not lies within the domain of the State Authorities, which is to be taken by way of a policy decision and therefore, the discontinuance or stoppage of dearness relief on pension was in accordance with law.

The above contention of the Respondent-Corporation cannot sustain, for the reasons;

firstly, once the State Government had notified Corporate Sector Pension Scheme on 29.10.1999 *[Annexure A-1]* by making it applicable w.e.f. 01.04.1999 and the said scheme remained in force till its repeal on 02.12.2004 and the Scheme mandated to grant "all pensionary benefits to employees" therefore, in such a scenario the stand of the Corporation that the release of dearness relief on pension, was dependant on the policy decision to be taken by the State is not sustainable; and *secondly*, the plea that release of dearness relief on pension is subject to policy decision of the State could sustain only in case of those employees who were not covered under the 1999 Scheme; and *thirdly*, as per 1999 Scheme, once the Corporate Sector Employees are entitled for all pensionary benefits in accordance with the CCS (Pension) Rules and Rule 55-A of the CCS (Pension) Rules 1972 which mandates the State Government to grant dearness relief on pension, then, the plea of the Corporation that dearness relief on pension

is dependent upon the policy decision to be taken by State is not tenable; *fourthly*, the right of a pensioner for dearness relief on pension accrues-flowing from Rule 55-A of CCS (Pension) Rules 1972 therefore, such a legal entitlement flowing from Statutory Rules cannot be restricted, curtailed, negated, delayed or withheld by the State Authorities at its whims and fancies; and *fifthly*, once the State Authorities on issuing 1999 Scheme had treated the Corporate Sector Employees who retired or died or were discharged from service between 01.04.1999 till repeal of the Scheme on 02.12.2004 at par with State Government Employees for the admissibility of Pension and also for release of Dearness Relief on Pension, under the CCS (Pension) Rules 1972 and based on this, once dearness relief on pension prescribed under Rule 55-A to the State Government Employees who retired or had died during the same period {01.04.1999 till 02.12.2004} throughout the State in all Government Departments and even to employees

of 19 other Autonomous Bodies, Boards and Corporations/PSUs which find place in Annexure-I to 1999 Scheme then, the abrupt stoppage-discontinuance of dearness relief on pension from January-February 2016 is ex-facie discriminatory, arbitrary, based on no valid reason ; and *sixthly,* the impugned stoppage of dearness relief on pension for the period from January 2016 till July 2022 being dehors the Scheme results in hostile discrimination of petitioners by violating the established parity admissible/extended to the petitioners, who were eligible, covered, governed and were also extended 'all pensionary benefits" including pension and relief on pension from time to time, in the past at par with the Employees of the State Government and the Employees of 19 other Boards/Corporations amounts to giving rise to superfluous and an artificial distinction is punitive; and *lastly* the abrupt stoppage of relief on pension admissible under Rule 55-A of the CCS (Pension) Rules 1972 and 1999 Scheme, amounts to obliterating

the rights, benefits and legal entitlements which had accrued to the petitioners by virtue of being a member of the Scheme w.e.f. 01.04.1999 which were protected and saved even after the repeal of Scheme on 02.12.2004 [*Annexure P-2*]., Thus, the rights, benefits and legal entitlements accruing under the Scheme could not be negated in case of the petitioners, illegally.

MANDATE OF LAW IN B S HIMALVI:

7. While dealing with a similar eventuality the action of the Himachal Pradesh Tourism Development Corporation in stopping-denying the dearness relief on pension was adjudicated by this Court, in the case of **Himachal Pradesh Tourism Development Corporation Ltd versus B.S. Himalvi and another** along with connected matters *[CWP No.910 of 2018* decided on 03.01.2019], wherein, the Division Bench of this Court, after discussing the intent and object of the Corporate Sector Employees Pension Scheme and after taking into account the provisions of Rule 3 [o] of the CCS (Pension) Rules 1972 read with

Rule 55-A of the CCS (Pension) Rules 1972 has mandated that the right to dearness relief on pension, which flows from the Statutory Rules cannot be negated by the State Authorities in any manner, in the following terms:-

> "6. In our considered view, there is inherent contradiction in the contention of learned counsel for the petitioners. It is not in dispute that the **right to receive pension of the respondents is governed by the provisions of the Himachal Pradesh** Corporate Sector Employees (Pension, Family Pension, Commutation of Pension and Gratuity) Scheme, 1999 (Annexure P-1) (hereinafter referred to as 'the 1999 Pension Scheme'). **Sub-clause (2) of Clause 1 of this Scheme** provides as under:-
>
> > "...(2) **All pensionary benefits of the employees of the participating H.P. Corporate Sector shall be determined in accordance with the provisions laid down in Central Civil Services (Pension) Rules, 1972,** the Central Civil Services (Commutation of Pension) Rules, 1981, as amended and adopted by the Himachal Pradesh Government for the State Government employees save as otherwise provided in this Scheme."
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> 7. 'Pension' is defined under **Clause (o) of Rule 3** of the Central Civil Services (Pension) Rules, 1972 as:-
>
> > "(o) Pension' includes gratuity except when the term pension is used

> in contradistinction to gratuity, but does not include dearness relief"

8. Similarly, **'Dearness Relief' is defined in Rule 55-A** of the Central Civil Services (Pension) Rules, 1972 and the same reads as under:-

> **"55-A. Dearness Relief on Pension/Family Pension**.
>
> (i) **Relief against price rise may be granted to the pensioners and family pensioners in the form of dearness relief** at such rates and subject to such conditions as the Central Government may specify from time to time."

9. The abovementioned Rule position itself explicitly demonstrates that the contention of the learned counsel for the petitioners that Dearness Relief is not payable to a person, who is otherwise entitled for the grant of pension, is incorrect.

10. In our considered view, a harmonious reading of the definitions of 'Pension' as also 'Dearness Relief' clearly and categorically leads to one and only one conclusion that though pension does not include Dearness Relief, **yet Dearness Relief is an integral part of the pensionary benefits**, more so, in the present case, in view of Sub-clause (2) of Clause 1 of the 1999 Scheme already quoted above.

11. The 1999 Pension Scheme itself envisages that **all pensionary benefits of the employees** of the participating H.P. Corporate Sector **shall be determined as per the provisions laid down in**

Central Civil Services (Pension) Rules, 1972, as amended and adopted by the Himachal Pradesh Government for the State Government employees, save as otherwise provided in the Scheme.

12. It is not the case of the petitioners that the benefit of Dearness Relief upon pension has not been adopted by the Himachal Pradesh Government for the State Government employees or that the same stands excluded under the provisions of the 1999 Pension Scheme. **Once the respondents have been found entitled for the grant of pension under the 1999 Pension Scheme, Dearness Relief, by no stretch of imagination, can be denied to them either on the pretext that the Dearness Relief is not payable upon pension or on the ground that whether or not Dearness Relief is to be granted, is the discretion of the employer**.

13. It is settled law that the pension payable to an employee is determined as per the Pension Rules which govern the field as on the date when the concerned employee superannuates. In the present case, as on the date when the respondents superannuated between 01.04.1999 to 02.12.2004, the 1999 Pension Scheme was in force. This Scheme envisaged grant of pensionary benefits to the respondents in accordance with the provisions of the Central Civil Services (Pension) Rules, 1972. **That being the case, as grant of Dearness Relief is provided for upon pension by the 1972 Rules, denial of the same by the petitioners to the respondents was clearly an arbitrary act and the same has been rightly set aside** by the learned

Tribunal by holding that the respondents are entitled for the grant of Dearness Relief upon pension.

14. It has been repeatedly held by the Hon'ble Supreme Court that **pension is a right and its payment does not depend upon the discretion of the employer, but is governed by the Rules** and an employee coming within those Rules is entitled to pension {See State of Rajasthan and others Vs. Mahendra Nath Sharma, (2015) 9 Supreme Court Cases 540}.

15. Accordingly, as this Court does not find any merit in these writ petitions, the same are dismissed, so also pending miscellaneous application(s), if any."

8. Learned State Counsel while referring to Reply-Affidavit makes an attempt to dislodge the petitioners, on the ground, that dearness relief on pension cannot be claimed as of right by petitioners in view of the judgment in the case of **Rajesh Chander Sood *(supra)*.**

The above contention of Learned State Counsel has been raised just to be negativated by this Court, *for the reason,* that as per the judgment in the case of **B.S. Himalvi,** *Annexure A-7* (supra) once the Division Bench of this Court has upheld the right and entitlement of the pensioners/family pensioners for dearness relief

on pension as revised from time to time then, the plea of the State Counsel that the dearness relief cannot be a part of pension does not stand to rational and logic. Once the Division Bench of this Court has upheld the admissibility of the dearness relief on pension then, the plea of Learned State Counsel does not hold ground, in view of admissibility of relief on pension, by virtue of Rule 55-A of the CCS (Pension) Rules 1972, on facts as well as in law.

8(i). So far as the submission based on the judgment in the case of **Rajesh Chander Sood** ***(supra)*** this Court is of the considered view, that aforesaid judgment is distinguishable, *for the reason*, that the *petitioners in the case of* ***Rajesh Chander Sood (supra)*** *were retirees/ family pensioners who were not governed by Corporate Employees Pension Scheme of 1999 [Annexure P-1]* and those incumbents, who retired or died or were discharged from service of the Boards/Corporations after repeal of 1999 Scheme on 02.12.2024. Those employees who retired after

repeal of 1999 Scheme on 02.12.2004 [Annexure P-2], do not have any vested right for pension and State Government was within its authority to fix a cut-off date i.e. 02.12.2004 to repeal /discontinue or to oust such employees from the purview of the Scheme. Even the employees who retired from service after the repeal of 1999 Scheme on 02.12.2004 constituted a different class and such retirees cannot claim parity with those employees who retired before repeal of Scheme on 02.12.2004 and were covered under the Scheme. In this backdrop, even the Hon'ble Supreme Court has mandated in case of ***Rajesh Chander Sood (supra)*** that the employees *who retired from service after repeal of Scheme on 02.12.2004* were disentitled for pensionary benefits and even the claim for parity by such employees was negated, which shall burden the State Exchequer, despite the fact that such employees (retiring after repeal of Scheme on 2.12.2004) have no vested right for pensionary benefits after repeal of the Scheme. Thought he claim of the

persons who retired from service after repeal of the Scheme on 02.12.2004 was outlined in the case of ***Rajesh Chander Sood (supra),*** *but the said judgement* stands reaffirmed by Three Judge Bench of the Honble Supreme Court in ***Satish Chander Sharma and Ors vs State of Himachal Pradesh, 2025 SCC Online SC 792,*** by negating the claim for any pensionary benefits of employees who retired from service after repeal of Scheme on 2.12.2004.

In the instant case, the petitioners are retirees/family pensioners of the Respondent Corporation, between the period 01.04.1999 till repeal of Scheme on 02.12.2004 and based on this, State Authorities sanctioned and released all pensionary benefits i.e. the pension including dearness relief on pension. Based on the Scheme once the Pension and Dearness Relief in Pension was granted/released to employees of 19 other Boards-Corporations which find mention in the Schedule/Annexure-I to the Scheme and also to the Employees of State Government {who retired

between 01.04.1999 till 02.12.2004 i.e. period when the Scheme remained operative} therefore, action of the Respondents in abruptly stopping and discontinuing the Dearness Relief on Pension in case of the petitioners from January-Feb 2016 to July 2022 or like period, cannot sustain and same is quashed and set-aside, in fact situation of instant case.

ABRUPT STOPPAGE OF LEGAL ENTITLEMENT OF DEARNESS RELIEF ON PENSION BY NEGATING STATURORY RULE AND SCHEME - IMPERMISSIBLE:

8(ii). Dearness Relief on Pension is not a bounty but is a legal entitlement flowing from Rule 55-A of the CCS (Pension) Rules. Dearness Relief is a relief granted to the pensioners and family pensioners against price rise. The price rise is common and uniform, in case of all the employees-retirees of 19 others Boards, Corporations of PSU's, which find place-mention along with the Respondent No.3-Himachal Pradesh State Handicraft and Handloom Corporation in Annexure-Schedule-I of 1999 Scheme. Moreover, the price rise affects employees of the State

Government with equal force, who had retired or died during 01.04.1999 to 02.12.2004 and who are covered and were governed under the under CCS (Pension) Rules 1972 for giving pension, including relief in pension. Based on this, the petitioners were also validly extended and released Pension and Dearness Relief on Pension from time to time. Pertinently, even *while issuing the orders granting dearness relief on pension, under Rule 55-A of the CCS (Pension) Rules 1972, the* ***State Government has not imposed any condition expressly*** *providing that the Dearness Relief on Pension shall not be admissible to the Corporate Sector Employees who were covered and governed under 1999 Scheme* i.e. [who had retired or died or were discharged from service between the date of applicability of Scheme till the repeal of Scheme from 01.04.1999 to 02.12.2004]. In absence of any express condition in the orders granting relief on pension, that the Dearness Relief on Pension was liable to be stopped or discontinued in the given or

specified eventualities by the State Authorities or the Respondent Corporation therefore, the abrupt stoppage or discontinuance of relief in Pension of the petitioners in January-February 2016 which stretched over till July 2022 defeats the very object and intent of giving dearness relief to the petitioners-retirees, despite being covered under the Scheme [applicable w.e.f. 1.4.1999 till 02.12.2004]. The Basic Pension and the Dearness Relief on Pension, cumulatively constitutes the property of an employee or a pensioner, within the meaning of Article 300-A of the Constitution of India and the petitioners could not be deprived of their such property flowing from 1999 Scheme and Rule 55-A of the CCS (Pension) Rules 1972 "without any authority of Law", which neither exists nor has the same been pointed out by the Respondents, in the instant case. Thus, legal entitlements for relief on pension which have accrued to the petitioners-retirees by virtue of Rule 55-A of CCS (Pension) Rules and Scheme of 1999 [*Annexure P-I*] cannot be withheld, curtailed,

restricted, denied or delayed to the petitioners without any authority of law. Unless and until State Authority by virtue of any law [which is none in instant case] provided for not granting dearness relief on pension till then, the right and legal entitlement cannot be curtailed, restricted denied, negated or delayed by the Respondents to the petitioners herein.

8(iii). Indisputably, the Respondents have given the basic pension and dearness relief on pension to the petitioners prior to January-February 2016 and after July 2022. Once, the respondents *inter se* have themselves admitted the entitlement for dearness relief on pension by releasing the same in terms of the scheme and the CCS (Pension) Rules therefore, it does not lies in the mouth of the Respondents herein to either withhold, curtail, restrict, deny or stop the Dearness Relief on Pension for intervening period from January-February 2016, pursuant to communication dated 17.01.2016 *[Annexure A-3]* till July 2022 so as to defeat the accrued and vested right of the

petitioners-retirees-family pensioners of Dearness Relief on Pension as per Rule 55-A of the CCS (Pension) Rules when, such relief in pension is a legal entitlements, which is payable the retirees-family pensioners, who are covered/governed by 1999 Scheme, to cope up and meet the inflation and price rise. Denial or deprivation of Dearness Relief on Pension for the Period from January 2016 to July 2022 or such like period is dehors the Scheme, contrary to Rule 55-A of the CCS (Pension) Rules 1972 and the mandate of law in the case of **B.S. Himalvi** (supra).

DIRECTIONS

9. In view of above discussion and for the reasons recorded hereinabove, the instant petition is ***allowed***, *in the following terms*:

(i). Communications dated 19.01.2016 & 17.02.2016 *[Annexures A-3 & A-4]* discontinuing the Dearness Relief on Pension of the petitioners from January/February, 2016 onwards July 2022 or such like period is quashed and set aside;

(ii). State Authorities and Respondent No.3-Corporation are directed to

restore, revive and to release the Dearness Relief on Pension to the petitioners [retirees as well as family pensioners from January-February 2016 till July 2022 or such like due dates within two months from today;

(iii). Action of the Respondents 1 to 3 herein, in discontinuing or stopping Dearness Relief on Pension/Family Pension to the petitioners being contrary to 1999 Scheme and dehors Rule 55-A and mandate of law, in the case of **B.S. Himalvi (***supra)* is declared inoperative and illegal qua petitioners; and the impugned stoppage ; is accordingly set-aside;

(iv). Parties to bear respective costs.

In the aforesaid terms, instant petition along with all miscellaneous application(s), if any, shall stand disposed of.

(Ranjan Sharma)
Judge

January 6, 2026
[Shivender]