IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 5651 of 2023
Decided on: September 26, 2023

Dr. Sunil Kumar Chandel and others …….. Petitioners

Versus

State of Himachal Pradesh and others …. Respondents

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

For the Petitioners	**:**	Mr. Sunny Dhatwalia, Advocate.
For the respondents	**:**	Mr. Rajan Kahol, Mr. Vishal Panwar and Mr. B.C. Verma, Additional Advocates General with Mr. Ravi Chauhan, Deputy Advocate General, for respondents Nos. 1,2, 4 and 5. Mr. Chitranjan Kumar Sharma, Advocate, for respondent No.3.

Sandeep Sharma, Judge (oral):

The petitioners have retired from the posts of Deputy Director-cum-Project Directors from the Agriculture and Rural Development Departments on different dates, on attaining the age of superannuation. They have approached this Court, by way of present petition filed under Art. 226 of the Constitution of India, praying therein for the following main relief(s):

> "A) That a writ of mandamus may very kindly be issued thereby directing the respondents to release the Revised pensionery benefit to the petitioner i.e. commuted amount, DCRG, Leave Encashment, pension arrear from due date.
>
> B) That the respondent no. 4 & 5 may kindly be directed to comply with annexure R-2 and release the revised pensionary benefit to the petitioner alongwith interest at the rate of 12% per annum."

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

2. Subsequent to their retirement/superannuation office orders were issued revising the petitioners' pay scale with effect from 01.01.2016, in pursuance to Himachal Pradesh Civil Service (Revised Pay) Rules, 2022, notified by the Department of Finance (Pay Revision), Government of Himachal Pradesh, vide notification dated 03.01.2022, circulated vide the Head Office Memorandum dated 21.06.2022. Consequently, the petitioners became entitled to get arrears of revised pay with effect from 01.01.2016 to 30.4.2018, but the same, according to the petitioners, has not been paid to them till date. This fact has not been disputed by Counsel for the respondents.

3. That apart, pension, gratuity, leave encashment and commutation of pension benefits payable to the petitioners are also required to be revised as per office memorandum dated 25.02.2022 issued by the Finance Department for revising the pension, gratuity, leave encashment and commutation of pension of the retired employees after 01.01.2016. The petitioners allege that this has also not been done.

4. At this stage, learned Additional Advocate General has placed on record a copy of communication dated 16.9.2023 issued under the signatures of Additional Director (Rural Development Department) and stated that since petitioners Nos. 2 and 3 are the employees of Agriculture Department and also stood retired from the said Department, as such, retirement dues are to be paid by the Agriculture Department and so far other petitioners are concerned, qua them, case

has been forwarded to the office of Accountant General, Himachal Pradesh. Aforesaid communication is ordered to be taken on record.

5. However, learned Counsel for the petitioners has also placed reliance on order dated 31.5.2023 of the Hon'ble Division Bench of this Court in CWP No. 2108 of 2023. In the said judgment, Hon'ble Division Bench has observed as under:-

> "Having regard to the reasons assigned in the said order and since the case of the petitioner in the instant case is also on the similar footing, the instant writ petition is also allowed by directing the respondents to pay arrears of pay as per the revision of the pay scales w.e.f. 01.01.2016 to 30.11.2020 with interest @ 6% per annum from the due date till the date of its realization as per Annexure P-2. A further direction is also issued to the respondents to revise the pension, gratuity (DCRG) and leave encashment, as per Annexure P-2 and to pay the same alongwith interest @ 6% per annum to the petitioner w.e.f. the due date i.e. 01.12.2020, till the date of its realization.
>
> Pending miscellaneous application(s), if any, also stand disposed of accordingly."

6. Both learned counsel have agreed that this Court had granted relief to similarly placed petitioners in CWP No.2108 of 2023 on 31.05.2023 and in CWP No.2421 of 2023 on 15.06.2023. Therefore, this writ petition is allowed for reasons alike and the respondents are directed to pay arrears of pay as per the revision of pay scales w.e.f. 01.01.2016 to 30.4.2018 with interest @ 6% per annum from the due date till the date of its realization and they shall also revise the pension, gratuity, leave encashment and commutation of pension and pay the same alongwith interest @ 6% per annum to the petitioner w.e.f.

01.01.2016 till the date of its realization, within a period of six weeks from today.

All pending application(s), if any, also stands disposed of

(Sandeep Sharma)
Judge

September 26, 2023
Vikrant