IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.68 of 2026

Decided on: 5th January, 2026

Leela Devi **.....Petitioner**

Versus

State of H.P. and others **.....Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1]

For the Petitioner: Mr. Gaurav Sharma, Advocate.

For the Respondents: Mr. L.N. Sharma, Additional Advocate General.

Jyotsna Rewal Dua, Judge

Notice. Mr. L.N. Sharma, learned Additional Advocate General, appears and waives service of notice on behalf of the respondents.

2. With the consent of learned counsel for the parties, the matter is heard at this stage.

3. The case set up by the petitioner is that her husband Sh. Gulab Singh was working in Irrigation & Public Health Department, District Sirmour; He died in harness on 29.10.2000; After the death of Sh. Gulab Singh, the respondents processed petitioner's case for grant of

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[1] **Whether reporters of print and electronic media may be allowed to see the order? Yes.**

family pension; On 03.08.2002, petitioner's son, Sh. Pawan Kumar was offered appointment on compassionate ground as Clerk on regular basis in the respondents-I&PH Division Nerwa; Petitioner was also sanctioned family pension w.e.f. 30.10.2000; Petitioner received family pension inclusive of dearness allowance till February, 2017, but w.e.f. March, 2017, the dearness allowance was stopped by the respondents; On inquiry, the petitioner was informed that the release of dearness allowance on family pension is not permissible to the petitioner as her son had been appointed on compassionate ground.

4. Learned counsel for the petitioner places reliance upon ***Smt. Shakuntala Devi Vs. State of H.P. & Ors.***[2] in support of petitioner's claim on dearness allowance along with family pension paid to her. In the said decision, it was held as under: -

> *"18. Since this Court is of the definite view that clarification dated 23.1.2017 is without any basis, finding given by the learned Singe Judge, qua the applicability of the same need not be gone into by this Court. Learned Single Judge has wrongly placed reliance upon the clarification dated 23.1.2017 while considering prayer made by the petitioner. Clause 2(3) of office memorandum dated 22.1.2001 specifically talks about admissibility of Dearness Relief to reemployed family pensioners appointed on compassionate grounds and does not take away the right of a family pensioner to receive Dearness Relief, that too, on the ground that*

[2] LPA No.197/2023, decided on 06.12.2023

other family members has been given appointment on compassionate grounds.

19. *Consequently, in view of detailed discussion made herein above, this Court finds merit in the present appeal and accordingly, same is allowed. Judgment dated 8.8.2023 passed by learned Single Judge in CWP No. 7495 of 2021 titled Shakuntala Devi v. State of H.P. and others is set aside. Writ petition filed by the petitioner is allowed. Clarification dated 23.1.2017 (Annexure P-6 of the writ petition) is set aside being illegal and contrary to Rule 55 itself. Respondents are directed to pay the dearness relief to the petitioner on the basic pension, as per Government instructions and keep on paying the same in future, in accordance with law. It is also directed that in case any recovery has been made from the petitioner, same be also refunded to her forthwith."*

The State of Himachal Pradesh & Ors. Vs. Shakuntala Devi[3] preferred against the above decision was dismissed by the Hon'ble Apex Court on 18.11.2024. Pursuant thereto, the concerned Finance Department (Treasuries, Accounts and Lotteries) implemented the decision in ***Smt. Shakuntala Devi***[2]. Though, the petitioner has preferred a representation on 08.12.2025 (Annexure P-6) to respondent No.2 seeking restoration of dearness allowance on family pension on the strength of decision rendered in ***Smt. Shakuntala Devi***[2], however, the said representation has not been considered and decided till date. Learned counsel for the petitioner submitted that the petitioner would be content, in case, respondent

[3] Special Leave Petition (Civil) Diary No(s).42949/2024

No.2/competent authority is directed to consider and decide the aforesaid representation of the petitioner in accordance with law within a time bound manner. Learned Additional Advocate General has no objection to this prayer.

5. In view of above, the instant writ petition is disposed of by directing respondent No.2/competent authority to consider and decide the aforesaid representation of the petitioner in accordance with law as well as taking into consideration the above judgment in case of ***Smt. Shakuntala Devi***[2] within a period of six weeks from today. The order so passed be also communicated to the petitioner.

The writ petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.

Jyotsna Rewal Dua
Judge

January 05, 2026
Mukesh