IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 2108 of 2023

Decided on: 31.05.2023

Bhagat Ram ....Petitioner.

Versus

Himachal Road Transport Corporation and others ...Respondents.

Coram

The Hon'ble Mr.Justice M.S. Ramachandra Rao, Chief Justice.

The Hon'ble Ms. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?[1]

For the petitioner : Mr. Manohar Lal Sharma, Advocate.

For the respondents : Ms. Shubh Mahajan, Advocate.

M.S. Ramachandra Rao, Chief Judtice *(Oral)*

Heard both sides.

2. The petitioner retired from the post of Instructor/Driver on 30th November, 2020, on attaining the age of superannuation, with the 1st respondent.

3. Subsequent thereto, an office order dated 01.12.2022 was issued, revising the petitioner's salary w.e.f. 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,

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

vide notification dated 03.01.2022, circulated vide the Head Office Memorandum dated 21.06.2022. Consequently, the petitioner became entitled to get arrears of revised pay w.e.f. 01.01.2016 to 30.11.2020, but the same, according to the petitioner, has not been paid to him till date. This fact has not been disputed by Counsel for the respondents.

4. That apart, pension, gratuity and leave encashment benefits payable to the petitioner are also required to be revised as per office memorandum dated 25.02.2022 (Annexure P-2) issued by the Finance Department for revising the pension, gratuity and leave encashment of the retired employees after 01.01.2016. The petitioner alleges that this has also not been done.

5. Learned Counsel for the petitioner has also placed reliance on order dated 17.07.2014 of the Hon'ble Division Bench of this Court in CWP No. 3050 of 2014. In the said judgment, Hon'ble Division Bench has observed as under:-

> *"3. According to the reply filed by the corporation, the amount sanctioned in favour of the petitioner could not be released due to financial crunch. The respondent-Corporation has already taken up the matter with the State Government for the sanction of Rs.3100 lac to defray the liability of gratuity and leave*

encashment vide letter dated 8.5.2014.

4. The respondent-Corporation is State within the meaning of Article 12 of the Constitution of India. The petitioner is entitled to get his pensionery/retiral benefits in accordance with law within a reasonable period. The pension has already been sanctioned in favour of the petitioner, however, the same is not being paid to him regularly. The petitioner is getting a meagre pension of Rs.7512/- per month. He has to feed his family from this meagre pension. It would be difficult for him to make both ends meet if this meagre pension is not released to the petitioner regularly. It may be true that there are financial crisis in the corporation. The Corporation is a commercial venture. It is for the respondent-Corporation to raise funds by running the corporation efficiently. Right to pension/retiral benefits including gratuity and leave encashment is a property within the meaning of Article 300A of the Constitution of India. The petitioner cannot be deprived of the same."

6. 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.

(M.S. Ramachandra Rao)
Chief Justice

(Ajay Mohan Goel)
Judge

May 31, 2023
(narender/rishi)