

Government of Himachal Pradesh
Jal Shakti Vibhag

No.JSV-A-B(7)2/2022

Dated: Shimla-171002, 16th February, 2024

ORDER

WHEREAS, Shri Arun Kumar Sharma, Superintending Engineer (Retd.) R/O House No.25, Ward No.9 Bhojpur Bazar, Sunder Nagar District Mandi (HP)-175002 had filed a Civil Writ Petition as CWP No. 8785 of 2023 titled as Arun Kumar Sharma V/s State of HP, before the Hon'ble High Court of Himachal Pradesh seeking directions to the respondents to grant the revised retiral benefits i.e. revised pension, gratuity, leave encashment, commuted pension etc. accrued as a result of revision of pay scale w.e.f. 01.01.2016 on the analogy of the judgment passed by the Hon'ble High Court of HP dated 31.05.2023 in CWP No. 2108 of 2023 titled as Bhagat Ram Vs Himachal Road Transport Corporation and Others.

AND WHEREAS, the Hon'ble High Court of Himachal Pradesh vide its order dated 9th November, 2023 had disposed of the CWP No. 8785 of 2023 titled as Arun Kumar Sharma Vs State of H.P. and passed the following judgment (operative part):-

"6. On the other hand, Mr. Rajan Kahol, learned Additional Advocate General, for the respondents submits that the judgment in case of Bhagat Ram (Supra) has not attained finality, as the HRTC Respondent therein have filed a Review Petition which is pending listing/hearing. He further submits that after the issuance of Notification dated 03.01.2022 (as referred to in Para 3) supra, the State Authorities have issued communication on 17.09.2022, deciding to give the Revised Pay and Revised Arrears to the employees, though in installments. He further submits that the present writ petition does not deal with or disclose these material aspects and therefore, in these circumstances, in case the petitioner approaches the Respondents-Competent Authority, his case shall be considered in view of existing norms.

7. In addition to the submissions made by learned Additional Advocate General as in Para 6 (supra) perused of the pleadings reveals that the instant petition is vague and does not disclose the material particulars, as to the nature and extent of retiral benefits due and released; and if not, the nomenclature of retiral benefits (including the factum as to whether option required for revised commuted pension was submitted or not, etc.) which are yet to be released, and the extent of interest admissible on non-release and/or belated release of these retiral benefits and extent of interest admissible on the basis of relevant rules/law. These material details are missing in the instant case.

8. Faced with this situation, learned Counsel for the petitioner, on instructions, submits that the petitioner shall be satisfied, in case, this Court permits him to make a fresh representation for claiming above benefits. The prayer being innocuous, is not opposed and needs to be granted.

9. Accordingly, as prayed for, by the learned counsel by the petitioner, this Court permits the petitioner to make a fresh representation to the Respondent No.1-Principal Secretary (Jal Shakti Vibhag) Himachal Pradesh, within three weeks from today, with a direction to the aforesaid respondent, to decide the same and pass appropriate orders, within four weeks, thereafter. Ordered accordingly. "

AND WHEREAS, in compliance to the above orders, the petitioner Shri Arun Kumar Sharma, tendered his representation on 22.11.2023 vide which he has prayed to disburse the arrears of pay as well as revised retiral benefits alongwith interest@ 6% per annum.

AND WHEREAS, since the judgment passed in CWP No. 2108/2023 titled as Bhagat Ram Vs HRTC relates to Himachal Road Transport Corporation, as such, the Transport Department was requested to intimate the status regarding implementation of the judgment mentioned *ibid*.

AND WHEREAS, the Transport Department vide letter No.TPT-B(15)-5/2022 dated 26.12.2023 has informed that HRTC has not implemented the order/judgment dated 31.05.2023 passed in CWP No.2108 of 2023 titled as Bhagat Ram Vs HRTC & Others and a review petition has been filed against the aforesaid order, which is not listed as yet.

AND WHEREAS, since the matter falls under the domain of Finance Department, as such, Finance Department was consulted as to whether the retiral benefits (i.e. revised pension, gratuity & leave encashment) has been released to the employees who have retired in between the period of 1.1.2016 to 31.12.2021 or not.

AND WHEREAS, the Finance(Pension) Department has informed that the State Government vide para-3 of the Himachal Pradesh Civil Services (Revised Pay) Rules, 2022 has decided that arrears of pay w.e.f. 1.1.2016 to 31.12.2021 shall be paid in such a manner and at such time as may approved by the Government. Similarly vide para-10 of the OM No.Fin (Pen) A(3)-1/2021-Part-I dated 25.02.2022, the State Government has decided that arrears on account of revision of pension/gratuity/commutation/family pension for the period w.e.f. 01.01.2016 to 31.01.2022, shall be paid in such manner as may be decided by the Government in future. Accordingly the State Government vide OM No.Fin-(PR)B(7)-1/2021-Loose dated 17.09.2022 and Fin(Pen)A(3)-1/2021 dated 17.09.2022 has released 20% of the Pay/Pension arrears subject to the maximum limit of Rs.50,000/- and 20% of the gratuity arrears to the Government employees including the petitioner. The balance pay/pension, gratuity etc. arrears on account of revision of pay scales & Pension w.e.f. 01.01.2016 to 31.01.2022 will be released in due course of time as may be decided by the Government keeping in view the availability of funds.

NOW THEREFORE, after careful consideration of the facts of the case and perusal of records, it is very much evident that HRTC has not implemented the judgment dated 31.05.2023 passed in CWP No.2108/2023 titled as Bhagat Ram Vs HRTC and filed a review petition before the Hon'ble High Court, which is not listed as yet. Since the petitioner in CWP No. 8785/2023 has sought the relief taking reliance of the above judgment (CWP No.2108/2023) which actually has been assailed by the concerned Respondent Department, as such, the relief cannot be granted to the petitioner.

NOW THEREFORE, in compliance to the judgment dated 9.11.2023 passed in CWP No.8785 of 2023, the representation of Shri Arun Kumar Sharma cannot be considered at this stage. A copy of the order be conveyed to the concerned.



(Onkar Chand Sharma)

Addl.Chief Secretary (Jal Shakti) to the
Government of Himachal Pradesh

Regd.

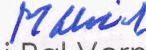
Shri Arun Kumar Sharma,
Superintending Engineer (Retd.)
R/O House No.25, Ward No.9 Bhojpur Bazar, Sunder Nagar
District Mandi (HP)-175002

No.JSV-A-B(7)2/2022

Dated: Shimla-171002, 16th February, 2024

Copy forwarded to the following for information and further action:-

1. The Addl. Advocate General, Himachal Pradesh, Shimla-171001.
2. The Engineer-in-Chief, Jal Shakti Vibhag, Shimla-171005.
3. Guard file/spare copies.



(Mahi Pal Verma)

Deputy Secretary (Jal Shakti) to the
Government of Himachal Pradesh
Phone No.0177-2880484