

(2024) 09 SHI CK 0033
In the High Court Of Himachal Pradesh
Case No : CWPOA No.4982 Of 2020

Raksha Devi

APPELLANT

Vs

State Of Himachal Pradesh & Anr

RESPONDENT

Date of Decision : 03-09-2024

Acts Referred:

Citation : (2024) 09 SHI CK 0033

Hon'ble Judges : Vivek Singh Thakur, J;Ranjan Sharma, J

Bench : Division Bench

Advocate : D.N. Sharma, Varun Chandel, Narender Sharma

Final Decision : Allowed

Judgement

Vivek Singh Thakur, J

1. Petitioner has approached this Court seeking following main relief:-

" That the respondents may very kindly be directed to pay the salary w.e.f. 01.11.2012 to September 2014 to the applicant along with interest @ rate of 12% p.a. to the applicant."

2. Petitioner was an employee of Himachal Pradesh State Social Welfare Advisory Board. He retired from Board on 30th June, 2015.

3. Grievance of petitioner is that on the basis of revision of pay scale w.e.f. 01.01.1996, notified by State Government, he was granted benefit thereof in his salary up till 31.10.2012, but said benefit was not extended to him from 01.11.2012 to September, 2014 and thereafter benefit of revision of pay scale has been extended to him.

4. Learned counsel for respondent No.2-Board, has placed on record Notice dated 21.06.2024, issued by Secretary, Himachal Pradesh State Social Welfare Board, whereby, it has been notified that henceforth, Himachal Pradesh State Social Welfare Board located at Thakur Vatika, Khalini, Shimla, Himachal

Pradesh, ceases to exist with immediate effect with further clause that any further correspondence with regard to the schemes/ Court Cases/matters, which have earlier been entrusted to the said Board, be taken up with concerned Directorate(s) henceforth.

5. It has been further notified in the aforesaid Notice that all the officials of the Boards who were engaged under different schemes have been relieved and ordered to be deployed/posted in the Directorate of Emp. of SCs, Minorities and Specially Abled and Directorate of Women and Child Development, Himachal Pradesh, vide order dated 21st June, 2024.

6. Petitioner stands retired from the Board and the above referred Directorate(s) to which employees of Board have been deployed/posted, are functioning under the control of Department of Social Justice and Empowerment, State of Himachal Pradesh. The said Department has been impleaded as respondent No.1 through its Secretary. Therefore, present petition, in terms of above referred Notice dated 21.06.2024, is to be and is being contested by respondent No.1 only.

7. Respondent No.1 in its reply has submitted that State had approved and released due and admissible Grant-in-Aid to respondent No.2 and there was no pending salary due in favour of petitioner on the basis of approved pay scale.

8. Reply on behalf of respondent No.2 also stands filed. As per reply of respondent No.2-Board, the Board was Project Implementing Agency of respondent No.1 and those Projects were 100% State Sponsored Projects and amount, if any, due and admissible to the petitioner, is to be paid by respondent No.1 and further that funding agency though had released revision of pay scale to employees of the Board w.e.f. 1986, but had declined for revision of pay scale w.e.f. 1996. However, under bona fide impression, pay revision w.e.f. 1996 was also implemented to the employees of the Board, but immediately after refusal of funding agency to extend the revision of pay w.e.f. 1996, the pay revision extended to Board employees was withdrawn.

9. As per respondent, pay revision w.e.f. 01.01.1986 was given to the employees of the Board, but pay revision w.e.f. 1996 was not given and, therefore, payment to employees of Board as per revision of pay scale w.e.f. 01.01.1996 was withdrawn and recovered.

10. Aforesaid action was assailed by the employees of the Board by filing O.A before Tribunal, which was transferred to this High Court and registered as CWP(T) No.12225 of 2008 and was decided on 14.07.2010 read with judgment passed by High Court in CWP No.60 of 2012, decided on 19.03.2015.

11. CWP No.60 of 2012, titled Meera Thakur & others versus State of Himachal Pradesh & others, was also allowed by learned Single Judge of this High Court, vide judgment dated 19.03.2015 with direction to State to comply with the directions contained in CWP(T) No.12225 of 2008, in letter and spirit.

12. In CWP(T) No.12225 of 2008, decided on 14.07.2010, along with CWP(T)

No.12348 of 2008, following directions were passed.

" Accordingly, the respondent-State is directed to consider the case of the petitioners on the analogy of Annexure A-11 dated 13.06.1989 to revise the pay scale of Rs.950-1800 to Rs.3120-5160 with effect from 01.01.1996. Needful be done within a period of ten weeks from the date of production of certified copy of this judgment by the petitioners."

13. In light of aforesaid judgment, CWP No.9033 of 2014, titled Mukesh Kumari & others versus State of H.P. & others, preferred by employees of Board, was also allowed on 26.05.2015, in following terms:-

" Consequently, the present petition is disposed of with a direction to the respondent-State to release the revised pay scale to the petitioners @ Rs.950-1800 to 3120-5160 w.e.f. 1.1.1996 with interest @ 9% per annum, within a period of eight weeks from today. The pending application(s), if any, are also disposed of. No costs."

14. In LPA No.15 of 2017, titled State of Himachal Pradesh and another versus Mukesh Kumari and others, Division Bench had declined to interfere in the order passed by learned Single Judge being a consent order but with liberty to file Review Petition.

15. Review Petition No.60 of 2019, titled State of H.P. & another versus Mukesh Kumari & others, preferred by State of H.P. in CWP No.9033 of 2014, was dismissed, vide order dated 12.07.2019.

16. In a similar matter i.e. LPA was preferred by State of H.P. bearing LPA No.681 of 2011, titled State of Himachal Pradesh & ors. versus Dhanni Devi, wherein claim of wife of deceased employee of the Board with respect to Leave Encashment and Gratuity, etc. As arrears on account of revision of pay scale w.e.f. 01.01.1996 was upheld and State was directed to release the said amount to wife of deceased employee and LPA was dismissed.

17. It is pertinent to mention that wages and salary to petitioner with respect to remuneration prior to 01.11.2012 and after 01.10.2014 have been paid on the basis of revised pay scale. Therefore, there is no logic to deprive the petitioner from said benefit for intervening period.

18. It is also apt to record that it is not the case of respondents that petitioner did not work during the period from 01.11.2012 to September, 2014. As petitioner has worked till this period, therefore, petitioner is entitled for wages and salary as was being paid to him prior to 01.11.2012 and after 01.10.2014.

19. Accordingly petition is allowed in terms of judgments, referred (supra), directing the respondents to pay salary to petitioner w.e.f. 01.11.2012 to September, 2014 in the same terms, as has been paid to in Mukesh Kumari's case in CWP No.9033 of 2014-D.