(2021) 11 DEL CK 0118

In the Delhi High Court

Case No : Civil Writ Petition No. 6407, 7105, 11783, 11801, 11819, 12484, 13997 Of 2018, 5488, 5513, 5834, 11151, 11152, 11236, 11594, 12006, 12007, 12039, 13592, 13776 Of 2019, 1521, 3595, 3703, 3746, 5785, 8967, 23747, 25629, 27703, 27224 Of 2020, 332, 777, 1756,

Shikha Sharma & Ors APPELLANT

Vs

Guru Harkrishan Public School & Ors RESPONDENT

Date of Decision : 16-11-2021

Acts Referred:

Constitution Of India, 1950 — Article 14, 19, 21, 30, 30(1)
Delhi School Education Rules, 1973 — Rule 121
Disaster Management Act, 2005 — Section 39(a)
Delhi School Education Act, 1973 — Section 8, 8(1), 8(2), 8(3), 8(4) 8(5), 9, 10, 10(1), 11, 12, 14, 19

Citation : (2021) 11 DEL CK 0118

Hon'ble Judges : V. Kameswar Rao, J

Bench : Single Bench

Advocate : Mangesh Naik, Abhishek Aggarwal, Parminder Singh Goindi, Nikhilesh Kumar, Abhishek Kr. Dev, Atul Kumar, Abhimanyu Sharma, R.K. Saini, Ankit Singh, Chetan Anand, Akash Srivastava, Kartik Malhotra, Avnish Ahlawat, Tania Ahlawat, Nitesh Kumar Singh, Palak Rohemetra, Ms.Vibha Mahajan Seth, V. Balaji, Panel Adv., Ms. Neha Singh, Ruchira Gupta, Akanksha Sisodia, Mini Pushkarna, Khushboo Nahar, Latika Malhotra, Rizwan, Latika Chaudhary, Yeeshu Jain, Jyoti Tyagi, Naushad Ahmad Khan, Zahid, Manish Chauhan, Gaurav Dhingra and Ms. Shobhana Oberoi, Santosh Kumar Tripathi, Arun Panwar, Siddharth Krishna Dwivedi, Zoheb Hossain, Vivek Gurnani, Jaswinder Singh, Niraj Kumar, Manish Mohan, Manisha Saroha, Abinash Kumar Mishra

Final Decision : Disposed Of

Judgement

V. Kameswar Rao, J

CM No. 33885/2021 in W.P.(C) 13997/2018 CM Nos. 28326/2021 & 28327/2021 in W.P.(C) 11151/2019 CM No. 33887/2021 in W.P.(C) 11594/2019

CM No. 33892/2021 in W.P.(C) 12006/2019 CM No. 875/2021 in W.P.(C) 332/2021 CM No. 27509/2021 in W.P.(C) 8842/2021

Exemption allowed subject to all just exceptions.

Applications are disposed of.

CM No. 33884/2021 in W.P.(C) 13997/2018 CM No. 33651/2021 in W.P.(C) 5488/2019 CM No. 28325/2021 in W.P.(C) 11151/2019 CM No. 27415/2021 in W.P.(C) 11152/2019 CM No. 33886/2021 in W.P.(C) 11594/2019 CM No. 33891/2021 in W.P.(C) 12007/2019 CM No. 33883/2021 in W.P.(C) 12039/2019 CM No. 4106/2021 in W.P.(C) 8967/2020 CM No. 22890/2021 in W.P.(C) 5513/2019 CM No. 27421/2021 in W.P.(C) 11819/2018

These applications are for early hearing of the respective writ petitions. The writ petitions have been heard and reserved for judgment. These applications are disposed of as having been allowed.

CM No. 6738/2020 in W.P.(C) 11236/2019

This application has been filed by the respondent seeking extension of time for filing the counter-affidavit by four weeks. It is seen from the record that counter-affidavit has not been filed. Since, I have heard the parties finally, this application is dismissed as infructuous.

W.P.(C) 6407/2018, W.P.(C) 7105/2018, W.P.(C) 12484/2018, W.P.(C) 13997/2018, W.P.(C) 5488/2019, W.P.(C) 5834/2019, W.P.(C) 11151/2019, W.P.(C) 11152/2019, W.P.(C) 11236/2019, W.P.(C) 11594/2019, W.P.(C) 12006/2019, W.P.(C) 12007/2019, W.P.(C) 12039/2019, W.P.(C) 1521/2020, W.P.(C) 3595/2020, W.P.(C) 3703/2020, W.P.(C) 3746/2020, W.P.(C) 5785/2020, W.P.(C) 8967/2020, W.P.(C) 777/2021, W.P.(C) 332/2021, W.P.(C) 1756/2021, W.P.(C) 1898/2021, W.P.(C) 4735/2021, W.P.(C) 6836/2021, W.P.(C) 8842/2021, W.P.(C) 9706/2021, W.P.(C) 9721/2021, W.P.(C) 10514/2021, W.P.(C) 10678/2021, W.P.(C) 10679/2021, W.P.(C) 10713/2021, W.P.(C) 10758/2021, W.P.(C) 10929/2021, W.P.(C) 11019/2021, W.P.(C) 11025/2021, W.P.(C) 11030/2021 & W.P.(C) 5513/2019

1. This batch of writ petitions have been filed by the Teachers of Guru Harkrishan Public Schools and also the Association being Guru Harkishan Public School Staff Welfare Association against the Directorate of Education and the Delhi Sikh Gurudwara Management Committee ('DSGMC', for short) / Guru Harkrishan Public School, New Delhi ('GHPS', for short) seeking benefits of the 6th Central Pay Commission ('6th CPC', for short) along with the arrears, benefits under the 7th Central Pay Commission ('7th CPC', for short) and arrears, and retiral benefits such as gratuity, leave encashment along with interest and costs. Some of the petitioners have also sought dearness allowance, transport allowance, benefits of 2nd MACP, 3rd MACP and retiral benefits. Since the grievance of the Teachers in these petitions is similar/ identical, I deem it appropriate to decide them through this combined judgment / order. For the sake of convenience, I

have culled out the facts from writ petition No.3746/2020 for the purpose of deciding the issues arising from these petitions.

2. This petition has been filed by the petitioner with the following prayers:-

"In the light of the above-mentioned facts and circumstances, it is respectfully prayed that this Hon'ble Court may be pleased to:

i) Issue a writ of mandamus, or any other appropriate writ order or directions in the nature of Mandamus directing the Respondents No.1 and 2 to release the arrears of 6th Pay Commission as per the guidelines and recommendations of 6th Pay Commission (after fixing the salary scale) along with interest @ 12% p.a.; and

ii) Issue a Writ, order or any other appropriate writ order or directions in the nature of Mandamus directing the Respondents No.1 and 2 to implement the recommendations of the 7th Pay Commission and refix the salary of the Petitioner as per the recommendation of 7th Pay Commission in her respective appropriate corresponding pay scale / grade and thereafter calculate and release the retirement benefits along with arrears of 7th Pay Commission to the Petitioner alongwith interest @ 12% p.a.

iii) Pass further orders allowing the cost of litigation in favor of the petitioner.

iv) Pending final adjudication and disposal of the present Writ petition, pass an ad -interim order thereby directing the respondents 1 & 2 to release the amount towards the retirement benefit. i.e Gratuity, leave encashment alongwith interest @ 9% from the date of superannuation i.e 21.01.2019.

Pass such other or further orders as this Hon'ble Court deems fit and proper in the facts and circumstances of the case."

3. Mr. Chetan Anand, learned counsel appearing for the petitioner stated that the petitioner is working in GHPS which is managed by the DSGMC for the past 30 years as a TGT. It is conceded position that DSGMC has established the GHPS Society, which is also the apex body managing the affairs of the said schools and according Mr. Anand is responsible for the implementation of the recommendations of the Central Pay Commission(s) in the schools governed by the DSGMC.

4. Mr. Anand argued that the Directorate of Education ('DoE', hereinafter) vide notifications dated February 11, 2009, October 15, 2008 and August 15, 2017, directed all the schools to implement the 6th and 7th CPC recommendations with respect to all its employees and staff. The petitioners in these petitions, who are the teaching and non-teaching staff (some of whom have retired) of the GHPS seek implementation of the said notifications.

5. The petitioners in the connected petitions seek similar reliefs, and this Court deems it appropriate to list out the particulars, which have been gathered from these writ petitions, as follows:-

S. No.

Petition No.

Name of Petitioner

Status of

employment

Prayers Sought

1.

W.P.(C) 332/2021

Parveen Behl along with 15 co-petitioners

Petitioner Nos. 1

to 14 were

working with Guru Harkishan Public School,

Loni Road. Petitioner Nos. 15

and 16 were

working with Guru Harkishan Public School,

Hemkunt Colony.

Arrears of salary (due and drawn statement) from 2006 till retirement along with gratuity and leave encashment.

Benefits of 6th and 7th

CPC along with arrears and interest as well as arrears towards TA & DA.

2.

W.P.(C) 777/2021

Praveen Kaur along with 33 co-petitioners

Petitioners No. 1

to 21 were working at Loni Road Branch of Guru Harkrishan Public School. Petitioners No.22 to 34 were

working with Guru Harkrishan Public School, Hargobind Enclave Branch.

Benefits of 6th CPC along with arrears, Transport Allowance (from September, 2008 to March,

2017) and interest.

12% interest on outstanding arrears of salary from 31.10.2009.

Compliance of order dated 11.02.2009.

3.

W.P.(C) 1521/2020

Vandana along with 56 co- petitioners.

Petitioners No.

42 to 59 have filed W.P.(C) 5974/2019 for implementation of 7th CPC.

Petitioners No. 42 and 43 have filed a

contempt petition being Cont. Cas. No. 11/2017 and 277/2017

seeking implementation of 6th CPC.

Petitioner Nos. 1

to 37, 42 to 54 are working with Guru Harkrishan Public School,

Punjabi Bagh Branch.

Petitioners No. 38

to 41 are

employees of Guru Harkrishan Public School,

Vasant Vihar Branch

Petitioners No. 55 is working with Guru Harkrishan Public School, Dhaka Dhir Pur Branch

Petitioner No. 56 is an employee of Guru Harkrishan Public School, Kalkaji Branch

Petitioner No. 57 is an employee of

Guru Harkrishan

Public School,

Karol Bagh Branch

Petitioner Nos. 44 to 47 are retired employees (seeking benefits of 6th CPC only)

Benefits of 6th CPC (except petitioner Nos. 42 and 43) and 7th CPC along with arrears and interest. Implementation of order dated

04.05.2018.

Direct respondent No.1 to take over management of respondent Nos. 3 to

7 or grant aid to these schools.

Regular payment of salary.

4.

W.P.(C) 1756/2021

Gurvinder Kaur

Retired employee of Guru

Harkrishan Public School (New

Delhi) Society. Date of retirement 28.02.2017

Benefits of 6th CPC and 7th CPC along with arrears and interest along with retiral benefits

including gratuity with interest.

5.

W.P.(C) 1898/2021

Arvinder Kaur Kalra and Malkit Kaur

Petitioners are retired teachers of Guru

Harkrishan Public School. Petitioner No.1 retired from post of TGT (Hindi) on 31.05.2018.

Petitioner No.2 retired from post of PRT on 31.12.2017.

Benefits of 6th CPC and 7th CPC along with arrears and interest along with retiral benefits

including gratuity with interest.

Arrears of

outstanding salary in terms of orders dated 11.02.2009 and

17.10.2017.

Direct the

Directorate of

Education to determine the dues and supervise in computation of refixing of salary and releasing of payment with arrears.

6.

W.P.(C) 3595/2020

Delhi Sikh Gurudwara Management Committee and Guru Harkrishan

Public School (New Delhi)

Society

Seeks quashing of order dated

17.04.2020.

Interim orders during pendency of petition.

Declaration that Section 39(a) of the

Disaster Management Act, 2005 need not be interpreted in a manner so as to confer power on the Government of NCT to direct private unaided recognised schools to make full payment of salaries to the teaching and non-teaching staff during the period of lockdown.

7.

W.P.(C) 3703/2020

Guru Harkishan Public School Staff Welfare Association through General Secretary

Direct respondent No.1 along with respondent Nos.2 and 3 to pay pending and regular salary to the petitioner.

Direct respondent No.1 to provide a loan equivalent to the amount lying in (a) the centralised fee account (b)

"advances & Loans to other

school/institutions under the same management as per balance-sheet of financial year of 2018-19 of respective school, to the GHPS Loni Road, Delhi; GHPS Hargovind Enclave & GHPS India Gate, Delhi Schools"

Benefits of 7th CPC along with arrears from the amount released by

respondent No.1

(Directorate of Education) as a loan

for the purpose of payment of salary.

8.

W.P.(C) 3746/2020

Shikha Sharma

Retired teacher superannuated from the post of TGT on

31.01.2019.

Benefits of 6th and 7th CPC along with arrears and interest after fixing the salary scale along with retiral benefits.

9.

W.P.(C) 4735/2021

Ritu Malhotra

Petitioner is currently employed as PGT in Guru

Harkrishan Public School, Loni

Road since 01.07.1988.

Benefits of 7th CPC along with arrears and interest after fixing the salary scale along with retiral benefits.

Calculation of refixed salary along with arrears, perquisites and interest.

Arrears of

outstanding salary with effect from 01.01.2016 till

30.06.2018 vide

order dated

17.10.2017 and

interest.

Arrears of deficit salaries between April, 2020 to April, 2021.

10.

W.P.(C) 5488/2019

T. P. Singh

Petitioner is a retired Teacher and had

superannuated on the date of 30.03.2019.

Benefits of 6th CPC along with arrears, interest and implementation of order dated

30.08.2018.

Direct respondent No.1 to take action against respondents, viz. Guru Harkrishan Public School, Loni

Road, Guru Harkrishan Public

School, Fateh Nagar and Guru Harkrishan Public School, Purana Quila Road including derecognition and/or taking over of management.

11.

W.P.(C) 5513/2019

Punita Kaur

Currently employed as a Teacher in Guru Harkrishan Public School, Tilak Nagar.

Direct respondent No.1 to take action against respondents, viz. Guru Harkrishan Public School, Tilak Nagar and Guru Harkrishan Public School, Purana Quila Road including derecognition and/or taking over of management.

Benefits of 6th CPC along with arrears, interest and implementation of order dated

30.08.2018.

12.

W.P.(C) 5785/2020

Jagdev Singh

Retired as Caretaker from Guru Harkrishan Public School, Hargobind Enclave Branch on 31.10.2019

Benefits of 6th and 7th CPC along with arrears and interest.

Seeks disbursement of retiral benefits along with interest.

Seeks appropriate action as per Section 24(4) of the Delhi School Education Act, 1973.

Cost of litigation.

13.

W.P.(C) 5834/2019

Mandeep Kaur

Voluntary retirement taken with effect from 15.10.2018

Benefits of 6th CPC along with arrears, interest along with retiral benefits (inclusive of TA &

DA)

Arrears of salary for the period

18.05.2018 to

03.07.2018 with

interest along with annual increment with effect from 01.07.2018.

Increments w.e.f 01.07.2018 based on revised salary and the dues thereof for the months of August, September and October.

14.

W.P.(C) 6407/2018

Hardayal Singh

Currently employed on post of Physical Education Teacher (PET)

Benefits of 6th and 7th CPC along with arrears and interest. Arrears of 6th CPC being balance T.A., D.A., Interest and Arrears towards 2nd MACP from 08.11.2014 to

31.04.2017.

Conveyance charges of Rs. 306/- per day from 23.02.2018 till repatriation of the petitioner.

Setting aside of office order dated 22.02.2018.

Also seeks

imposition of costs as well as initiation of contempt proceedings.

15.

W.P.(C) 6836/2021

S. Sahib Singh and 12 other co-petitioners

Petitioners are non-teaching, administrative staff of Guru Harkrishan Public

School, Poorvi

Marg.

Seeking disbursement of deficient portion of salaries for the academic year 2020-

2021 (June, 2020)

16.

W.P.(C) 7105/2018

Jaswant Kaur along with 67 co-petitioners

Petitioners are teaching and non- teaching staff, Guru Harkishan Public School,

Loni Road Branch.

Benefits of 7th CPC along with arrears and interest from 01.01.2016.

17.

W.P.(C) 8842/2021

Dalip Kaur and 5 co-petitioners

Petitioners are retired employees both teaching and non-teaching staff of Guru

Harkrishan Public School, Vasant Vihar and Guru Harkrishan Public School, Hemkunt Colony.

Benefits of 6th and 7th CPC along with arrears and interest. Arrears of 6th CPC being balance T.A. and D.A. from 2014 till retirement. As well as the retiral benefits.

Petitioner No.2

(Jatinder Kaur

Chopra) seeks release of salary due between the period January, 2020 to

February, 2021.

18.

W.P.(C) 8967/2020

Pushpinder Kaur and 15 co-petitioners

Petitioners are

employees of Guru Harkrishan Public School, Hemkunt Colony.

Declaration that the act of by the respondent No.1 and

2 of not releasing salaries as being illegal.

Seeking arrears of salaries due to the petitioners since April, 2020.

Fix annual increment of the petitioners.

Cost of litigation.

19.

W.P.(C) 9706/2021

Pushpinder Kaur and 13 co-petitioners

Petitioners are

working as Teachers in Guru Harkrishan Public School, Hemkunt Colony.

Benefits of 7th CPC along with arrears and interest including implementation and re-fixation of salary.

Cost of litigation.

20.

W.P.(C) 9721/2021

Tejinder Pal Gujral

Petitioner superannuated on 30.04.2018 and

was given an extension of 7 months post retirement after 30.09.2018.

Benefits of 6th CPC along with arrears and interest including retiral benefits.

Seeks action against the respondents and damages to the tune of Rs. 10,00,000/-.

21.

W.P.(C) 10514/2021

Amarjit Singh

Petitioner retired as an Electrician on 31.01.2020.

Benefits of 6th and 7th CPC along with arrears and interest. Arrears of 6th CPC being balance T.A.,

D.A. and retiral benefits.

Arrears of 7th CPC with effect from 01.01.2016 till

realization.

Seeks action against the respondents.

22.

W.P.(C) 10678/2021

Ravinder Kaur Bhatia

Petitioner superannuated on 31.05.2019 from

the post of TGT.

Benefits of 6th CPC along with arrears, interest and retiral benefits.

Seeks action against the respondents and damages to the tune of Rs. 10,00,000/-.

23.

W.P.(C) 10679/2021

Bhupinder Kaur

Petitioner superannuated on 30.06.2019 from

the post of PGT from Guru Harkrishan Public School, Punjabi Bagh.

Benefits of 6th CPC along with arrears, interest and retiral benefits.

Seeks action against the respondents and damages to the tune of Rs. 10,00,000/-.

24.

W.P.(C) 10713/2021

Simranjeet Kaur and 76 other co- petitioners

The Petitioners are teaching and non-teaching employees.

Petitioner No. 5 retired in July 2021, Petitioner

No. 31 in

March 2021,

Petitioner No. 37

in May 2021,

Petitioner No. 41 in June

2020, Petitioner No. 42 in June 2020, Petitioner No. 46 in July 2021,

Petitioner No. 52

in March 2021 and Petitioner No. 63 in June 2021.

Arrears of salary from April, 2020 to February, 2021 with interest, TA and DA

(with arrears and

interest)

They seek

increments due from July, 2020.

25.

W.P.(C) 10758/2021

Suneeta Vohra

Petitioner superannuated on 30.09.2019 from

the post of PGT from Guru Harkrishan Public School, Punjabi Bagh.

Benefits of 6th CPC along with arrears, interest and retiral benefits.

Seeks action against the respondents and damages to the tune of Rs. 10,00,000/-.

26.

W.P.(C) 10929/2021

Bharti Kaur Chani

Petitioner is a former teacher who took

voluntary retirement from Guru Harkrishan Public School, Kalkaji.

Benefits of 6th and 7th CPC along with arrears, interest and retiral benefits. Seeks arrears and re- fixation of salary.

Compliance of order dated 17.10.2017.

Cost of litigation.

27.

W.P.(C) 11019/2021

Amita Saksena and 3 other co- petitioners

Petitioners are teaching staff in Guru Harkrishan Public School, Hemkunt Colony.

Benefits of 6th and 7th CPC along with arrears and interest.

Alternatively, if the respondent Nos.2 and 3 (school) are not able to pay the arrears, then

respondent No.1

(DoE) may be directed to take over the School.

28.

W.P.(C) 11025/2021

Harvinder Kaur Jaggi and Rajbir Kaur Padam

The petitioners

were working

with Guru Harkrishan Public School, Branch at Nanak Piao.

Benefits of 6th and 7th CPC along with arrears and interest. Arrears of 6th CPC being balance T.A.,

D.A. from 2014 till retirement along with retiral benefits.

Release of salary of petitioner No.2 from January, 2020 to

February, 2021.

Alternatively, if the respondent Nos.2 and 3 (school) are not able to pay the arrears, then

respondent No.1 (DoE) may be directed to take over the School.

29.

W.P.(C) 11030/2021

Harjeet Kaur and 23 other co-petitioners

Petitioner Nos. 1

to 24 were

working with Guru Harkrishan Public School, Branch at Dhakka Dhirpur.

Petitioners seek arrears of salary from January, 2006 till date along with the 6th CPC

recommendations, interest, TA etc. from September, 2008 to

March, 2017.

They seek interest on outstanding arrears of salary from 31.10.2009. Direct

respondent No.1 (DoE) to supervise the release of payment.

Cost of litigation.

30.

W.P.(C) 11151/2019

Paramjit Kaur Batra

The petitioner is a former employee

who retired on 30.04.2019.

Petitioner seeks

terminal benefits

including gratuity, leave encashment, DA arrears along with arrears of the 6th CPC.

Initiate action against the respondent Nos.2 and 3 (school) and the same be taken over by respondent No.1 (DoE).

31.

W.P.(C) 11152/2019

Mohanjeet Kaur

Petitioner retired on 30.11.2018.

Benefits of 6th CPC along with arrears and interest. Arrears of 6th CPC being balance T.A., D.A., Interest and Arrears towards MACP between 2014 to 2017. As well as retiral benefits.

Initiate action against the respondent Nos.2 and 3 (school) and the same be taken over by respondent No.1 (DoE).

32.

W.P.(C) 11236/2019

Harmeet Kaur Anand

The petitioner is a former employee working at Guru Harkrishan Public School, Branch at Nanak Piao who superannuated on 30.04.2019.

Benefits of 6th and 7th CPC along with arrears and interest. Arrears of 6th CPC being balance D.A. As well as retiral benefits.

Initiate action against the respondent Nos.2 and 3 (school) and the same be taken over by respondent No.1 (DoE).

33.

W.P.(C) 11594/2019

Mandeep Kaur and 8 other co- petitioners

The petitioners are teaching and non-teaching

employees of Guru Harkrishan

Public School, Branch at Tilak Nagar

Benefits of 6th and 7th CPC along with arrears and interest.

They seek regular

payment of salary on the 7th of every month.

34.

W.P.(C) 12006/2019

Anita Awasthi

The petitioner is a retired teacher who superannuated on 31.03.2019 from

Guru Harkrishan Public School, Branch at Nanak Piao.

Benefits of 6th CPC along with arrears and interest (inclusive of arrears towards 3rd MACP T.A., D.A. gratuity, leave encashment, etc.).

35.

W.P.(C) 12007/2019

Surinder Singh and 54 other co-petitioners

The petitioners are teaching and non-teaching staff at Guru

Harkrishan Public School located at Nanak Piao, Tilak Nagar and Hargobind Enclave.

Benefits of 6th and 7th CPC along with arrears and interest.

They seek regular payment of salary on the 7th of every month.

36.

W.P.(C) 12039/2019

Gurmeet Kaur and 51 other co-petitioners

The petitioners are teaching and non-teaching staff at Guru

Harkrishan Public School located at Karol Bagh and Punjabi Bagh.

Benefits of 6th and 7th CPC along with arrears and interest.

They seek regular payment of salary on the 7th of every month.

37.

W.P.(C) 12484/2018

Daizy Kaur and 130 other co-petitioners

The petitioner Nos. 1 to 99 are teaching and non- teaching staff of Guru Harkrishan Public School, Loni Road Branch petitioner Nos.

100 to 131 are teaching and non- teaching staff of Guru Harkrishan Public School, Hargobind Enclave Branch.

Benefits of 7th CPC along with arrears and interest.

38.

W.P.(C)

13997/2018

Mohanjeet

Kuar and 54 other co- petitioners

Petitioner Nos.1

and 2 have retired from Guru Harkrishan Public School located at Nanak Piao. Whereas petitioner Nos.3 to 55 are teaching and non-teaching staff of Guru Harkrishan Public

School located at Nanak Piao.

Benefits of 7th CPC

along with arrears and interest.

6. The DSGMC has also filed a writ petition being W.P.(C) 3595/2020 details of which have been mentioned at serial No.6 in the table above, seeking the following prayers:

"In view of the facts and circumstances as enumerated herein above, it is most humbly prayed that this Hon'ble Court may be pleased to:-

a. Issue a writ, order or direction, thereby declaring that the provision of section 39(a) of the Disaster Management Act, 2005, in the event that the same interpreted so as to confer power on the Government of NCT of Delhi, more particularly the Directorate of Education, to direct private unaided recognized school to make full payment of salaries to the teaching and non teaching staff during the period of lockdown as being illegal, arbitrary, excessive and violative of Article 14 of the Constitution.

b. Issue a writ of mandamus or any other appropriate writ, order or direction to quash and set aside clause (viii) of the order dated 17.04.2020 issued by Directorate of Education Government of NCT of Delhi for being arbitrary, unconstitutional and violative of Article 14, 19, 21 and 30 of the Constitution of India.

c. Pass interim direction staying the operation of the impugned order dated 17.04.2020, during the pendency and final disposal of the present petition.

d. Pass any other or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present petition."

7. The above reveals that the writ petition filed by the DSGMC and GHPS, Purana Quila Road, India Gate is for challenging the order dated April 17, 2020 issued by the DoE. Suffice to state, Mr. Abinash Kr. Mishra, learned counsel for the DSGMC/ GHPS has fairly stated that in view of the Judgment passed on May 31, 2021 in W.P.(C) 7526/2020, wherein the circular dated April 17, 2020, has been superseded by the circular dated April 18, 2020, wherein it was held that the DoE has no power to indefinitely postpone the collection of annual charges and development fee and further that aforesaid acts are prejudicial to the Schools as the same would cause an unreasonable restriction in their functioning, the same were held to be illegal and ultra vires vis-à-vis the powers of the DoE.

8. According to Mr. Mishra, the aforesaid judgment having been challenged in an Intra-Court appeal before the Division Bench and the Division Bench vide its order dated June 07, 2021 has declined to stay the operation of the judgment dated May 31, 2021 and even the SLP thereof, having been rejected, the writ petition filed by the DSGMC and the Schools be allowed to be covered by the judgment dated May 31, 2021 passed in W.P.(C) 7526/2020. This submission made by Mr.Mishra is taken on record by holding that the petitioners in this writ petition being W.P. (C) No. 3595/2020 are bound by the judgment dated May 31, 2021 passed in W.P.(C) No. 7526/2020, and the writ petition is closed.

9. Now coming to the batch of writ petitions, as stated above the issue pertains to grant of benefits of 6th and 7th CPC / retiral benefits / DA / TA / MACP. It is the unanimous submission of the learned counsel for the petitioners that the respondents in the writ petitions, i.e., DSGMC and GHPS are required to implement the same, more particularly with reference to Section 10 of the Delhi School Education Act, 1973 ('DSE Act', for short) and also in view of the undertaking given on behalf of the respondents DSGMC / GHPS Society / GHPS that they shall implement the benefits of the 6th CPC, the same has not been implemented till date. That apart, various orders have been passed, wherein clear directions have been issued by this Court from time to time for grant of benefits under the 6th CPC to the employees of the Schools and till date, the

same have not been implemented. The details of the said orders are provided hereunder: -

S. No.	Petition No./Case No.	Date of Order
1.	W.P. (C) 12132/2009	February 14, 2013
2.	W.P. (C) 2132/2011	March 06, 2013
3.	EFA (OS) 07/2014	May 22, 2015 September 04, 2015 November 18, 2015 December 03, 2015 February 12, 2016 August 16, 2016
4.	CONT. CAS (C) 11/2017	July 09, 2015 November 18, 2015 March 15, 2017
5.	CONT. CAS (C) 46/2016	January 09, 2017
6.	W.P. (C) 6533/2018	February 22, 2019

7.

W.P. (C) 511/2017

February 26, 2020

8.

CONT. CAS (C) 9/2021

April 06, 2021

August 16, 2021

9.

CONT. CAS (C) 255/2020

January 08, 2021

The violation of the undertakings so given and the violation of the orders passed by this Court is a serious issue and in fact a suo motu contempt proceedings must be initiated against the authorities with a further direction to the DoE to take over the management of all these Schools.

10. Learned counsel for the petitioners have also relied upon the judgment of a Coordinate Bench of this Court in the case of Kuttamparampath Sudha Nair v. Managing Committee Sri Sathya Sai Vidya Vihar and Anr., W.P.(C) 928/2019 decided on May 06, 2021, to say that the issue with regard to grant of benefits under the 7th CPC is no more res integra and for parity of reasons, the benefit of the judgment must be given to the employees of the GHPS / petitioners herein.

11. That apart, they also state that based on the implementation of the benefits of the 6th and 7th CPC, they must be given the arrears of pay and also the retiral benefits to those employees, who have retired in the interregnum. That apart, the petitioners are also entitled to transport allowance, as has been observed in CONT.CAS(C) 746/2016 through order dated January 09, 2017 and the benefits of MACP.

12. On the other hand, Mr. Abinash Kumar Mishra submitted GHPS Society is a Registered Society under the provisions of Societies Registration Act, 1860. There are twelve GHPS in Delhi which are functioning as unaided, recognised minority Schools under the provisions of DSE Act and Rules. The job of the GHPS Society is to ensure that the policy guidelines with regard to the schools' functioning under the name and style of GHPS like the issue of transfer of the employees are followed. He would state, GHPS Society had tried to coordinate amongst the twelve GHPS by creating a Centralised Funds Account for streamlining the financial matters of the schools because at the relevant point of time, a number of schools (out of the 12 schools) were facing financial problems and some other schools had some extra funds and hence an attempt was made to streamline the financial situation in order to ensure that all the staff of all the

schools get their salaries and emoluments. However, this practice was objected to by some of the employees and also by the Government of NCT of Delhi due to which the Centralised Funds Account was discontinued. The arrangement continued only from 2016 to 2019.

13. Mr. Mishra would state, the entire statement of accounts of the said Centralised Funds Account and the other financial accounts of the GHPS and DSGMC have been filed on record. So far as, no dispute has been raised against the authenticity and the transactions mentioned in those records, which clearly shows that the respondents have not done anything undesirable with the funds of the schools and all the funds of the schools have been spent only to aid the functioning of the GHPS. Except for the aforesaid act of maintaining the Centralised Funds Account for the period of 2016 to 2019, the GHPS Society has got no control over the financial situation of the schools who maintain their own funds and income. Hence, GHPS Society cannot be fastened with any burden to pay to the employees of the schools as GHPS Society does not receive any income on its own from any source, as all the income is derived by the schools only. As far as the DSGMC is concerned, it is the submission of Mr. Mishra that legally it is an entity created under the provisions of Delhi Sikh Gurdwara Act, 1971 and the Rules made thereunder and hence it is not an entity or an authority under the DSE Act and Rules for paying the salary and emoluments of the staff of the twelve schools. In view of the above, he would submit that neither GHPS Society nor DSGMC can be directed to make any payment to the employees of the twelve GHPS and hence these writ petitions are liable to be dismissed.

14. Subject to the above, Mr. Mishra would state that the act of the DSGMC, of filing their undertaking and affidavits to state that they voluntarily help the employees of the twelve GHPS by clearing their dues relating to the 6th CPC, cannot be treated as an outcome of any 'statutory liability or obligation' under the provisions of the DSE Act and Rules, for paying the claims arising out of the benefits under the 7th CPC; as no affidavit and/or undertaking has been given on this aspect for the 7th CPC benefits and hence the act of the DSGMC, voluntarily helping the schools and their employees cannot be used as an argument to bypass the directions against the DSGMC, to pay the amounts as a matter of mandatory duty since the employees of the DSGMC are being paid differently and not in accordance with the provisions of Section 10 of the DSE Act. Hence, no statutory obligation can be cast against the DSGMC and GHPS to comply with Section 10 of the DSE Act for the employees of the schools, as it may be treated as a prejudicial act against the differently situated employees of the DSGMC who are paid according to the provisions of Delhi Sikh Gurdwara Act, 1971 and the rules made thereunder which are different from the provisions of the DSE Act. Mr. Mishra would state, without prejudice to the above, that the fee structures of the schools are admittedly analysed yearly and approved by the DoE and in the present case also the same has been done by DoE for all the schools, and based on the calculations done on the basis of the figures mentioned in the 6th CPC report, and it is for this reason that the schools have not even charged the fees

from the students on the basis of the figures mentioned in 7th CPC reports since January 01, 2016 till date. Even at present, the same are being done on the basis of the 6th CPC reports only. He would state that as the school managements have not charged the fees from the students on the basis of the 7th CPC reports, since they await an approval of the DoE, who has been approving the financial figures of the schools on a yearly basis, which is based on the figures of the 6th CPC reports, without even insisting on a recalculation of the figures by incorporating the figures of 7th CPC reports, the benefits of the 7th CPC reports cannot be paid to the staff of the schools unless and until the schools are allowed to frame some scheme for recovering the entire dues since 2016 onwards in a manner as may be approved by the DoE under the DSE Act and till then no direction should be passed against the schools for paying the 7th CPC benefits to the staff. Mr. Mishra would submit that the act of the DoE in approving the financial figures of the schools on the basis of the 6th CPC reports only (without incorporating 7th CPC figures), amounts to an approval of the DoE to pay the salary and emoluments on the basis of the 6th CPC reports only, as there is no direction or notice issued by the Directorate to the schools under the first proviso of Section 10 of the DSE Act to correct the financial figures being submitted and approved by the Director. The Schools are minority unaided recognised schools and hence they are entitled to regulate their own payment structure unless directed to correct the same by the DoE, which has not been done in this case. According to him, general circulars of the DoE for instructing the schools to pay the 7th CPC benefits cannot be relied on, as an act of issuing Notice or Directions under the first proviso of Section 10 of the DSE Act as even after passing the said general circulars the Directorate has been approving the financial figures as given by the schools on the basis of the calculations based on the 6th CPC reports. The teachers / staff of the minority unaided private recognised schools cannot be treated at par with the Government school employees, for paying the 7th CPC emoluments, unless and until the DoE allows the schools to charge the fees and other components of expenses from the students by incorporating the figures of the 7th CPC reports for bringing the payment structure of the staff at par with that of the Government schools.

15. Mr. Mishra would state that the judgment dated May 06, 2021 passed in W.P. (C) 928 of 2019 cannot be applied in the facts of the present case for the simple reason that in the said case, as is evident from paragraph 13 of the judgment dated May 06, 2021, the Director had issued specific Notices and reminders to the schools (within the meaning of first proviso of Section 10 of DSE Act) for bringing the pay scale of the staff at par with that of the level of Government school employees, which is not the case here, as no notice has even been claimed to have been issued under the first proviso of Section 10 of the DSE Act. Section 10 of the DSE Act cannot be applied in isolation without there being an explicit permission from the DoE for recovering the entire dues from students for the entire period commencing from January 01, 2016 till the dates of payment and also for the future period. He would state that the DoE had passed the

orders, which have been set aside in W.P.(C) 7526/2020 vide judgment dated May 31, 2021, which have further created problems for the schools which seek to recover the fees on the basis of the calculations of the 6th CPC reports. Hence, it is clear that unless the DoE grants approval to the schools to collect all the arrears for the entire period (January 01, 2006 to December 31, 2015 on the basis of 6th CPC report calculations and since January 01, 2016 onwards on the basis of the 7th CPC report calculations), nothing should be directed to be paid by the schools.

16. Mr. Mishra would submit that the schools may be exempted from the applicability of the 7th CPC reports in view of the fact that the school imparts education for the students of the minority Sikh community, having poor financial conditions and hence they cannot afford to pay.

17. Having heard the learned counsel for the parties and considered the record, the issue which falls for consideration is whether the petitioners are entitled to the benefits of the 6th and 7th CPC and the arrears thereof including the retiral benefits, transport allowance and MACP as claimed by the petitioners in these petitions.

18. Before I deal with the submissions made by the learned counsel for the parties, the gist of the submissions made by Mr. Abinash Kumar Mishra are as follows:

(i) The schools are functioning as unaided minority schools under the DSE Act, hence entitled to regulate their own payment structure and they would be exempted from the applicability of 7th CPC as they impart education to the students of the minority Sikh community having poor financial conditions.

(ii) The Centralised Fee Account was created by the DSGMC which has now been discontinued. Since the discontinuation of the said account, the GHPS Society has no control over the financial issues of GHPS and it is for the individual Schools to maintain to their own funds and income.

(iii) The voluntary filing of affidavits and undertakings by the DSGMC to state that they are willing to help the Schools and as such this cannot be treated as a Statutory liability or obligation for payment of the 6th and 7th CPC benefits and therefore no directions can be passed for directing voluntary actions of the DSGMC.

(iv) The GHPS are charging fees based on the 6th CPC scales and the fee structure gets regularly approved by the DoE, due to this the fee has not been charged on the basis of 7th CPC report.

(v) Until the GHPS comes with a scheme to recover the fee from 2016 onwards with the approval of DoE, till then no direction should be passed against the DSGMC / GHPS Society / GHPS.

19. Having noted the broad submissions of Mr.Abinash Kumar Mishra, the first

issue need to be decided is whether the Schools being minority institutions, can be directed to pay the benefits of the 6th and 7th CPC. The issue is no more res-integra firstly in view of the fact Section 10 of the DSE Act which reads as under:

"10. Salaries of employees-(1) The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority:

Provided that where the scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of any recognised private school are less than those of the employees of the corresponding status in the schools run by the appropriate authority, the appropriate authority shall direct, in writing, the managing committee of such school to bring the same up to the level of those of the employees of the corresponding status in schools run by the appropriate authority:

Provided further that the failure to comply with such direction shall be deemed to be non-compliance with the conditions for continuing recognition of an existing school and the provisions of section 4 shall apply accordingly.

(2) The managing committee of every aided school shall deposit, every month, its share towards pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits with the Administrator and the Administrator shall disburse, or cause to be disbursed, within the first week of every month, the salaries and allowances to the employees of the aided schools."

The said Section contemplates that the pay and allowances of the employees of the recognised private Schools could not be less than that of the employees of the Government run Schools.

20. Secondly, the Supreme Court in its opinion in the case of Frank Anthony Public School Employees' Association v. Union of India (UOI) and Ors., (1986) 4 SCC 707, wherein the Court was concerned that the validity of Section 12 of the DSE Act which excluded the applicability of Sections 8 to 11 of the DSE Act to the unaided minority Schools has held, Section 12 to be discriminatory and as such bad in law and thereby making Sections 8 to 11 of the DSE Act (except Section 8(2) of the DSE Act) applicable to the minority Schools which includes Section 10 of the DSE Act, which I have already reproduced above. The relevant paragraphs of the judgment are reproduced as under:

"20. Thus, Sections 8(1), 8(3), 8(4) and 8(5) do not encroach upon any right of minorities to administer their educational institutions. Section 8(2), however, must, in view of the authorities, be held to interfere with such right and, therefore, inapplicable to minority institutions. Section 9 is again innocuous since Section 14 which applies to unaided minority schools is virtually on the same lines as Section 9. We have already considered Section 11 while dealing with

Section 8(3). We must, therefore, hold that Section 12 which makes the provisions of Chapter IV inapplicable to unaided minority schools is discriminatory not only because it makes Section 10 inapplicable to minority institutions, but also because it makes Sections 8(1), 8(3), 8(4), 8(5), 9 and 11 inapplicable to unaided minority institutions. That the Parliament did not understand Sections 8 to 11 as offending the fundamental right guaranteed to the minorities under Article 30(1) is evident from the fact that Chapter IV applies to aided minority institutions and it cannot for a moment be suggested that surrender of the right under Article 30(1) is the price which the aided minority institutions have to pay to obtain aid from the Government.

21. The result of our discussion is that Section 12 of the Delhi School Education Act which makes the provisions of Chapter IV inapplicable to unaided minority institutions is discriminatory and void except to the extent that it makes Section 8(2) inapplicable to unaided minority institutions. We, therefore, grant a declaration to that effect and direct the Union of India and the Delhi Administration and its officers, to enforce the provisions of Chapter IV [except Section 8(2)] in the manner provided in the chapter in the case of the Frank Anthony Public School. The management of the school is directed not to give effect to the orders of suspension passed against the members of the staff.

22. After the arguments of both sides were fully heard, Shri Sushil Kumar who appeared for the institution along with Mr Anthony submitted that according to the instructions of the Council for the Indian School Certificate Examination, "the staff must be paid salaries and allowances not lower than those paid in comparable Government schools in the State in which the school is located" and in view of this instruction it was not necessary for us to go into the question of the applicability of Section 10 to minority institutions. We do not attach any significance to this last minute, desperate submission. It is not clear whether the instruction is a condition imposed by the Council pursuant to Section 19 of the Delhi School Education Act. There is no way by which the staff can seek to enforce the instruction. Nor is the instruction of any relevance since it is not the case of the respondents that the institution is paying or is agreeable to pay the scales of pay stipulated in the instruction.

23. We must refer to the submissions of Mr Frank Anthony regarding the excellence of the institution and the fear that the institution may have to close down if they have to pay higher scales of salary and allowances to the members of the staff. As we said earlier the excellence of the institution is largely dependent on the excellence of the teachers and it is no answer to the demand of the teachers for higher salaries to say that in view of the high reputation enjoyed by the institution for its excellence, it is unnecessary to seek to apply provisions like Section 10 of the Delhi School Education Act to the Frank Anthony Public School. On the other hand, we should think that the very contribution made by the teachers to earn for the institution the high reputation that it enjoys should spur the management to adopt at least the same scales of pay as the

other institutions to which Section 10 applies. Regarding the fear expressed by Shri Frank Anthony that the institution may have to close down we can only hope that the management will do nothing to the nose to spite the face, merely to "put the teachers in their proper place". The fear expressed by the management here has the same ring as the fear expressed invariably by the management of every industry that disastrous results would follow which may even lead to the closing down of the industry if wage scales are revised."

(emphasis supplied)

21. A Full Bench of this Court in the case of Guru Harkishan Public School v. Director of Education and Ors., (2015) 221 DLT 448 while examining applicability of Rule 121 of the Delhi School Education Rules, 1973, though not in the context of Section 10 of the DSE Act, has in detail referred to the judgment of the Supreme Court in Frank Anthony Public School Employees' Association (supra) and finally held in paragraphs 35 to 37 as under:

"35. The court further held that 'mere prescription of scales of pay and other conditions of service would not jeopardise the right of the management of minority institutions to appoint teachers of their choice. The excellence of the instruction provided by an institution would depend directly on the excellence of the teaching staff, and in turn, that would depend on the quality and the contentment of the teachers. Conditions of service pertaining to minimum qualifications of teachers, their salaries, allowances and other conditions of service which ensure security, contentment and decent living standards to teachers and which will consequently enable them to render better service to the institution and the pupils cannot surely be said to be violative of the fundamental right guaranteed by Article 30(1) of the Constitution. The management of a minority Educational institution cannot be permitted under the guise of the fundamental right guaranteed by Article 30(1) of the Constitution, to oppress or exploit its employees any more than any other private employee. Oppression or exploitation of the teaching staff of an educational institution is bound to lead, inevitably, to discontent and deterioration of the standard of instruction imparted in the institution affecting adversely the object of making the institution an effective vehicle of education for the minority community or other persons who resort to it. The management of minority institution cannot complain of invasion of the fundamental right to administer the institution when it denies the members of its staff the opportunity to achieve the very object of Article 30(1) which is to make the institution an effective vehicle of education'.

36. Thus, Section 8(1), 8(3), 8(4) and 8(5) were held not to encroach upon any right of the minorities to administer their educational institutions. However, Section 8(2) was held to be not applicable to minority institutions.

37. The Court finally held that 'Section 12 which makes the provisions of Chapter IV inapplicable to unaided minority schools is discriminatory not only because it makes Section 10 inapplicable to minority institutions, but also because it makes

Sections 8(1), 8(3), 8(4), 8(5), 9 and 11 inapplicable to unaided minority institutions. That the Parliament did not understand Sections 8 to 11 as offending the fundamental right guaranteed to the minorities under Article 30(1) is evident from the fact that Chapter IV applies to aided minority institutions and it cannot for a moment be suggested that surrender of the right under Article 30(1) is the price which the aided minority institutions have to pay to obtain aid from the Government'."

(emphasis supplied)

22. So, it is clear that the pay and allowances of the employees of unaided minority Schools cannot be less than those of the employees of the Government run Schools. There is no dispute that the benefits of 6th and 7th CPC have been given to the employees of the Government run Schools. If that be so, the employees of the unaided minority Schools are also entitled to get the benefits of the recommendations as made by the 6th and 7th CPC reports. So, this plea of Mr. Abinash Kumar Mishra is liable to be rejected. The plea of Mr. Mishra, that till such time the DoE grants approval to the Schools to collect the arrears of fees, the Schools must not be directed to pay the benefits of 7th CPC is concerned, the same is unmerited. The employees are entitled to equal pay and other benefits, by operation of Section 10 of the DSE Act, in other words, by operation of law, the said benefits are payable. The same does not pre-suppose the approval being granted by the Director to the Schools to claim higher fee or arrears thereof.

23. Having said that, the plea of Mr. Mishra is financial hardship. The same is not sustainable. The issue which falls for consideration is no more res integra in view of the judgment in the case Kuttamparampath Sudha Nair (supra), wherein in paragraphs 35 to 37, the Court has held as under:

"35. The next contention of the School, without prejudice to the earlier contention, was that the School is run by a Charitable Trust and its financial condition is weak with total number of students being less and many of them covered under the EWS/DG category. School is thus unable to bear the burden of disbursing the salaries and the emoluments as per the CCS (Revised Pay) Rules, 2016 in respect of the Government employees. Courts have repeatedly held that paucity of funds or financial crunch of an employer cannot be an answer to non-compliance of a statutory mandate. In the context of payment of minimum wages, the Supreme Court in Unichovi vs. State of Kerala, AIR 1962 SC 12 and Hydro (Engineers) Private Ltd vs. Workmen 1969 (1) SCR 156 held that hardship to an employer to carry on its activity, on account of payment of minimum wages, is an irrelevant consideration for determination of minimum wages. The State assumes that every employer must be in a position to pay minimum wages before he resorts to employment. In Air Freight Ltd. vs. State of Karnataka, 1996 (6) SCC 547, this solemn principle was reiterated.

36. In the context of Section 10 (1) of DSEA&R, this Court had rejected the argument of paucity of funds as an irrelevant consideration in the case of Samaj

Shiksha Samiti vs. Delhi State Saraswati Shishu Bal Mandir Karamchari Kalyan 2002 (97) DLT 802. In this context, I may quote a few passages from the judgment in Veena Sharma (Mrs.) & Ors. vs. The Manager, No.1 Air Force School Palam & Ors. 2005 VII AD (Delhi) 517 as follows:-

"18. Two things clearly emerge, from the above position. The respondent school is under an obligation to comply with the provisions of Section 10. This obligation is not relieved in any manner; rather, Section 4(1) reinforces this conclusion. Further, the Director and other authorities under the Act have no power to exempt any recognized school from its liability to comply with Section 10. The reliance of the school on the implied approval by the Central Government, is in my considered opinion of no consequence. There is no dispute about he fact that the Directorate itself has been insisting upon payment of salary and allowances in accordance with Section 10. Indeed that was the condition of recognition itself. The second issue is that financial hardship is also no consideration or ground to relieve an employer of his statutory obligation to pay what society has decreed as the minimum salary of teachers and staff, through the provisions of Section 10 of the Act.

19. The submission of learned counsel for the school that if the relief is granted and the pay scales have to be released in favour of the petitioners, a situation might arise leading to the close of the school is somewhat similar to the apprehensions voiced by the Management in Frank Anthony case (supra). The Supreme Court dealt with arguments in the following terms:-

"We must refer to the submissions of Mr. Frank Anthony regarding the excellence of the institution and the fear that the institution may have to close down if they have to pay higher scales of salary and allowances to the members of the staff. As we said earlier the excellence of the institution is largely dependent on the excellence of the teachers and it is no answer to the demand of the teachers for higher salaries to say that in view of the high reputation enjoyed by the institution for its excellence, it is unnecessary to seek to apply provisions like Section 10 of the Delhi School Education Act to the Frank Anthony Public School. On the other hand, we should think that the very contribution made by the teachers to earn for the institution the high reputation that it enjoys should spur the management to adopt at least the same scales of pay as the other institutions to which Section 10 applies. Regarding the fear expressed by Shri Frank Anthony that the institution may have to close down we can only hope tht the management will do nothing to the nose to spite the face, merely to put the teachers in their proper place. The fear expressed by the management here has the same right as the fear expressed invariably by the management of every industry that disastrous results would follow which may even lead to the closing down of the industry if wage scales are revised.

20. The submission of paucity of funds, has to be, therefore, rejected. The subjective or individual hardship of a management, that too sponsored by no less an Organization of the stature of Indian Air force, which even went to the extent

of seeking to deny liability on the ground that the school caters to the children of JCOs (Junior Commissioned Officers) impliedly perhaps suggesting that the children of such employees can be taught without compliance with minimum standards imposed by law, cannot be countenanced."

37. In this regard, I am also fortified in my view by a judgment of a Co-ordinate Bench in Deepika Jain vs. Rukmini Devi Public School & Ors. W.P. (C) 237/2013 decided on 23.09.2013, where implementation of 6th CPC benefits was sought by the Petitioner and the Court held as follows:-

"3. I have held in many cases, including the case of Meenu Thakur Vs. Somer Ville School & Ors. W.P.(C) 8748/2010 decided on 13.2.2013 that paucity of funds is not a ground to not pay amounts as per the 6th Pay Commission Report and the order of the Director of Education dated 11.2.2009. A Division Bench of this Court in LPA 286/2010 titled as Rukmani Devi Jaipuria Public School Vs. Sadhna Payal & Ors. decided on 11.5.2012 has also held that paucity of funds is not a ground not to make payments as per the 6th Pay Commission Report."

24. Following the aforesaid judgment, even this Court in the case pertaining to grant of arrears of salary also granted similar reliefs to the petitioners in Shashi Kiran & Ors. v. Siddharth International Public School & Anr., W.P.(C) No.2734/2021; Rambir Singh Malik v. Greenfields Public School, W.P.(C) 9486/2020; and Inderpreet Kaur & Ors. v. Directorate of Education & Ors., W.P.(C) 4127/2020. This Court in a recent judgment in the case of Amrita Pritam & Ors. v. S. S. Mota Singh Junior Model School & Ors., W.P.(C) 1335/2019 dated September 22, 2021 has granted the benefits of the 7th CPC along with arrears to the petitioners therein. I may state here that an appeal has been preferred against the said judgment being S. S. Mota Singh Junior Model School & Anr. v. Directorate of Education, Government of NCT of Delhi & Ors. LPA 399/2021, however, the Division Bench has not stayed operation of the judgment in W.P.(C) 1335/2019 dated September 22, 2021. That apart, I find despite giving an undertaking to this Court and also this Court passing orders from time to time, unfortunately the benefits of the 6th CPC have not been granted. This Court is of the view that, apart from the undertaking given and also in view of the orders passed in the petitions referred to above, the petitioners are entitled to the benefits of the 6th and 7th CPC in law as well.

25. Accordingly, these writ petitions need to be allowed and the respondent / DSGMC / GHPS Society / GHPS are directed to, re-fix the salaries and other emoluments of the petitioners under 6th and 7th CPC in accordance with the rules. It is made clear that the DSGMC / GHPS Society shall ensure the compliance of the orders passed by this Court. I take note of the submission made by Mr. Misra that neither DSGMC nor the GHPS Society in any case have any statutory liability under the provisions of the DSE Act / Rules to grant the benefits of the 6th and 7th CPC but the fact remains that the DSGMC was being represented by their functionaries in these proceedings and even the undertakings were given on behalf of DSGMC in the proceedings before this

Court and as such cannot absolve itself, from ensuring that the benefits of the 6th and 7th CPC are given to the petitioners. This direction is in the facts of the cases more specifically where the claim of the petitioners is with regard to the grant of the benefit under the 6th and 7th CPC and connected issues. The petitioners shall also be entitled to arrears of pay in view of fixation of their pay under the 6th and 7th CPC, upto the date of payment subject to adjustment of salary already paid.

26. The arrears thereof under the 6th CPC shall be paid to the petitioners with interest at the rate of 6% per annum. The arrears of 7th CPC shall not carry any interest. The fixation of pay and arrears shall be made / paid within a period of six months from today. All retiral benefits shall also be fixed and released to the petitioners, who have retired from their service within six months from today. As an immediate assistance, the respondents / DSGMC / GHPS Society / GHPS shall release an amount of Rs. 5 Lacs to each of the retirees within one month, subject to adjustment at the time of full payment. It is made clear that the failure to pay the amounts within six months as directed above shall entail payment of a higher interest of 9% per annum on the arrears of both 6th and 7th CPC and retiral benefits.

27. On the issue of grant of transport allowance / dearness allowance, the DoE in consultation of the GHPS in which petitioners, who sought such relief are working shall pass order, by considering the orders in the cases being CONT.CAS.(C) 46/2016 dated January 09, 2017 and in W.P.(C) 2132/2011 dated March 06, 2013 and instructions, if any, and convey the decision to those petitioners, within 10 weeks from today. Similarly, the claim of some petitioners for MACP in W.P.(C) 6407/2018, W.P.(C) 11152/2019 and W.P.(C) 12006/2019 shall be decided by the DoE in consultation with the GHPS in which the petitioners, who sought such relief are employed and convey the same to those petitioners, within 10 weeks from today. If the benefits are payable, the same shall be released to the petitioners within six months thereafter.

28. With the above directions these petitions are disposed of. No costs.

CM No. 8059/2021 in W.P.(C) 11783/2018 CM No. 7545/2021 in W.P.(C) 11801/2018 CM No. 33655/2021 in W.P.(C) 13592/2019 CM No. 33872/2021 in W.P.(C) 13776/2019 CM No. 8011/2021 in W.P.(C) 11819/2021

These applications are for recalling of orders / restoration of disposed of writ petitions. I am not inclined to allow these applications, the same are dismissed with liberty to seek such remedy as available to them in accordance with law.

CM Nos. 33590/2020 & 2539/2021 in W.P.(C) 8967/2020 CM No. 34082/2021 in W.P.(C) 777/2021

CM No. 23397/2021 in W.P.(C) 332/2021 CM No. 30018/2021 in W.P.(C) 6836/2021 CM No. 34051/2021 in W.P.(C) 8842/2021

These applications are for impleadment of the applicants in the petitions as petitioners. I am not inclined to allow these applications except stating that liberty is with the applicants to seek such remedy as available in law.

The applications are dismissed.

CM Nos. 23747/2020 & 25629/2020 in W.P.(C) 3703/2020

These applications have been filed by the respondent School in the writ petitions filed by the GHPS Staff Welfare Association for certain directions, the same are not maintainable and are dismissed as such.

CM No. 32146/2021 in W.P.(C) 6407/2018 CM No. 32439/2021 in W.P.(C) 7105/2018 CM No. 32023/2021 in W.P.(C) 12484/2018 CM No. 45932/2019 in W.P.(C) 11151/2019 CM No. 46274/2019 in W.P.(C) 11236/2019 CM No. 31821/2021 in W.P.(C) 1521/2020 CM. Nos. 27703/2020 & 27224/2021 in W.P.(C) 3703/2020 CM No. 33990/2021 in W.P.(C) 5785/2020 CM Nos. 28946/2020 & 31826/2021 in W.P.(C) 8967/2020 CM No. 1974/2021 in W.P.(C) 777/2021 CM No. 876/2021 in W.P.(C) 332/2021 CM No. 5502/2021 in W.P.(C) 1898/2021 CM No. 14604/2021 in W.P.(C) 4735/2021 CM No. 27510/2021 in W.P.(C) 8842/2021 CM No. 32378/2021 in W.P.(C) 10514/2021 CM No. 33688/2021 in W.P.(C) 10929/2021 CM No. 33960/2021 in W.P.(C) 11019/2021 CM No. 33997/2021 in W.P.(C) 11025/2021 CM No. 34012/2021 in W.P.(C) 11030/2021

In view of my conclusion in the writ petitions above, these applications have become infructuous and disposed of as such.

