IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.977 2024

Date of Decision: 01.01.2026

Mohinder Singh Chatranta .....Petitioner

Versus

Himachal Pradesh Financial Corporation ... Respondent

Coram:
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? [1]

For the Petitioner: Mr. Rohan Tomar, Advocate.

For the Respondent: Mr. Sohan Singh Thakur, Advocate.

Sandeep Sharma, Judge(oral):

By way of instant petition, petitioner has prayed for following main reliefs:-

> "i) That the respondent may kindly be directed to pay the arrears of remuneration for the period of re-employment commencing from 01.12.2018 to one year in accordance with the revised pay scale in view of the office memorandum dated 21.10.2022 amounting Rs. 7,53, 240/-;
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> ii) The respondents may also be directed to pay interest @ 9% per annum w.e.f. 01.12.2018 till the date of its realization."

2. For having bird's eye view, facts relevant for adjudication of the case at hand, as emerge from the pleadings adduced on record by the respective parties, are that the petitioner herein retired as Manager from the respondent-Corporation on 31.10.2018 on attaining the age of superannuation. Within a period of one month after his retirement, petitioner was re-employed with the respondent-

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

Corporation as Manager for a period of one year vide communication dated 01.12.2018 **(Annexure P-1),** on the last pay drawn i.e., pay in the pay band plus grade pay being drawn at the time of retirement. On 30.11.2019, petitioner left the office of the respondent-Corporation upon expiry of the period of re-employment.

3. Vide Notification No. Fin-(PR)B(7)-1/2021 dated 03.01.2022, the Department of Finance(Pay Revision) issued a notification thereby notifying the Himachal Pradesh Civil Services (Revised Pay) Rules, 2022. On the basis of which, vide order dated 21.10.2022, respondent-Corporation revised the pay scale of the petitioner w.e.f. 01.01.2016, as a consequence of pay revision in terms of notification dated 03.01.2022, the last pay drawn by the petitioner at the time of his suppuration on 30.10.2018 also came to be revised to Rs. 1,01,900/-. After passing of aforesaid order dated 21.10.2022, whereby the pay of the petitioner was revised w.e.f. 01.01.2016, the petitioner made a representation dated 23.07.2023 to the respondent-Corporation for release of arrears for the period of re-employment on account of revision of pay scale (Annexure P-3 colly). However, such prayer of him was rejected by the respondent-Corporation vide communication dated 25.11.2023 (available at page No.18 of the paper book). In the aforesaid background, petitioner has approached this Court in the instant proceedings, praying therein for the reliefs, as have been reproduced hereinabove.

4. I have heard learned counsel for the parties and gone through the record of the case carefully.

5. Reply filed by the respondent pursuant to the notice issued in the instant proceedings, if perused in its entirety, nowhere disputes the facts as have been noticed hereinabove, rather an attempt has been made to refute the claim of the petitioner on the ground that he had accepted re-employment on the basis of the last pay drawn. It is submitted that since, at the time of retirement, petitioner was in receipt of last pay drawn to the tune of Rs. 39,130/-, no illegality can be said to have been committed by the respondent-Corporation, while rejecting the claim of the petitioner for differential amount on account of pay revision w.e.f.01.01.2016.

6. Mr. Sohan Singh Thakur, learned counsel representing the respondent-Corporation, vehemently argued that at the time of issuance of office order dated 01.12.2018, no objection was ever raised by the petitioner, rather, he with open eyes accepted the proposal and kept on receiving the salary at the rate of the last pay drawn at the time of his superannuation i.e. Rs. 39,130/-. He submitted that though the pay of the petitioner was revised w.e.f. 01.01.2016 in terms of Himachal Pradesh Civil Services (Revised Pay) Rules,2022, but such fact will not in any manner help the petitioner in getting the reliefs, as have been prayed for in the instant petition. He further submitted that petitioner was entitled to

Rs.4,69,560/- during his re-employment, which already stands paid to him and he is not entitled to additional amount i.e. Rs.7,53,240/-on account of difference, if any, in terms of revision of pay w.e.f 01.01.2016.

7. To the contrary, Mr. Rohan Tomar, learned counsel for the petitioner, vehemently argued that once it is not in dispute that pay of the petitioner was revised w.e.f.01.01.2016 vide order dated 01.11.2022 and thereafter, the petitioner has been shown to have retired on the last pay drawn in the pay band of Rs. 10300-34800+ 5000 Grade Pay and his pay was fixed as Rs. 1, 01,900/-, petitioner is well within its right to claim the aforesaid amount. In support of his afore claim, he placed reliance upon the judgment dated 18.12.2024 passed by Co-ordinate Bench of this Court in CWP No. 309 of 2024, titled ***Sh. Munshi Ram Pathania vs. State of Himachal Pradesh and others***, wherein, in similar facts and circumstances, directions came to be issued to the respondents therein to pay the petitioner differential amount of the pre-revision basic pay and revised basic pay from 10.06.2019 upto 10.06.2022 i.e. the period for which he was re-employed.

8. Admittedly, in the case at hand, petitioner, after having superannuated on 31.10.2018, was given re-employment vide communication dated 01.12.2018 **(Annexure P-1),** perusal whereof clearly reveals that the salary of the petitioner on re-employment was

fixed as “last pay drawn” i.e. i.e. pay in the pay band plus grade pay being drawn at the time of retirement, Dearness allowance will not be admissible. Though, in terms of aforesaid condition, no DA was payable to the petitioner, but admittedly his pay on re-employment was to be fixed on the basis of last pay drawn. Admittedly, at the time of re-employment vide communication dated 01.12.2018, petitioner was in receipt of Rs. 39130/- in the pay band and as such, he kept on drawing salary till the expiry of one year for which period he was given re-employment. It is also not in dispute that pay of the petitioner ultimately came to be revised vide order dated 21.10.2022 passed by the respondent-Corporation in terms of Himachal Pradesh Civil Services (Revised Pay) Rules,2022, notified vide notification dated 03.01.2022. If aforesaid order is perused in its entirety, it clearly reveals that on account of pay revision w.e.f.01.01.2016, pay of the petitioner on 01.04.2018 was fixed at Rs. 1,01,900/-.

9. Though, learned counsel for the respondent-Corporation, while referring to the appointment letter dated 01.12.2018, vehemently argued that petitioner was rightly paid Rs. 39130/-on his re-employment because at the time of his superannuation, he was in receipt of aforesaid amount, but this Court is not persuaded to agree with learned counsel for the respondent- Corporation that he was not entitled to receive the pay band for the reason that once pay of the petitioner stood revised vide order dated 21.10.2022 w.e.f.

01.01.2016, as a consequence whereof, his pay as on 01.04.2018 was fixed at Rs. 1,01,900/-, petitioner shall be deemed to have been in receipt of Rs. 1,01,900/- at the time of his superannuation.

10. No doubt, perusal of order dated 01.12.2018 (Annexure P-1), whereby petitioner was offered re-employment, suggests that he was employed on the basis of last pay drawn i.e. Pay in the pay bank plus grade pay being drawn at the time of retirement, but it is also not in dispute that State Government vide decision dated 03.01.2022, revised the pay scale of the employees w.e.f. 01.01.2016,as a result thereof, the pay of the petitioner, which was drawn by him w.e.f 01.01.2016 upto the date of his retirement, also stood revised, as is evident from office order dated 21.10.2022. Since, on account of passing of order dated 21.10.2022, last pay drawn by the petitioner stood revised, there appears to be no justification to deny the differential amount, as is being claimed by the petitioner in the instant petition. On account of revision of pay, the salary of the petitioner for the period of re-employment is liable to be indemnified on the basis of said revised last pay drawn.

11. Careful perusal of order dated 01.12.2018, nowhere suggests that salary on account of re-employment of the petitioner was to be paid on fixed emoluments, rather same was to be paid on the basis of last pay drawn i.e. pay in the pay band plus grade pay and at the relevant time, respondent-Corporation could always

specify that the petitioner would be entitled to a particular fixed amount, but since no such specific mention was ever made in order dated 01.12.2018, rather respondent proceeded to offer re-employment on the basis of last pay drawn, which, in the event of revision of pay, stood revised on account of subsequent action of the respondent itself, this Court is perused to accept the claim of the petitioner as has been raised in the instant petition.

12. At this stage, it would be profitable to reproduce relevant paras of the judgment passed in ***Sh. Munshi Ram Pathania's*** case(supra) herein below:-

> "6.The petitioner in terms of Annexure P-1, was reemployed on the last pay drawn, which was explained in terms of Annexure P-1 to be the pay in the pay band + grade pay being drawn at the time of retirement. It was the State Government which took a decision in the year 2021 to revise the pay scales of the employees, with effect from 01.01.2016. This means that the pay of the petitioner, which was drawn by him, with effect from 01.01.2016 up to the date of his superannuation, also stood revised. This is also not in dispute as learned counsel for the petitioner submits that the pay of the petitioner actually stands revised with effect from 01.01.2016 up to the date of his superannuation, though arrears are being paid in installments.
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> 7. In the light of said development, as pursuant to the issuance of subsequent notification in the year 2022, which stands referred by me hereinabove, because the last pay drawn by the petitioner stood revised, obviously the salary of the petitioner for the period of re-employment, is liable to be indemnified on the basis of the said revised last pay drawn. There is no condition in order dated 10.06.2019 that the salary to be paid to the petitioner on re-employment, on the basis of last pay drawn, was to be on fixed emoluments. Nothing prevented the respondents from specifying

in the order of reemployment that the petitioner shall be entitled to a particular sum of amount, which is fixed. However, respondents did not do so. They rather offered re-employment on the last pay drawn, which fortuitously stood revised on account of the acts of the respondents themselves.

8. Therefore, in the light of above discussion, as the petitioner cannot be denied the wages for the period of reemployment on the basis of the last pay drawn, as it stood revised with effect from 01.01.2016, this writ petition is allowed and respondents are directed to pay to the petitioner the differential amount of the pre-revision basic pay and revised basic pay from 10.06.2019 up to 10.06.2022 i.e. the period for which he was re-employed. Needful be done within 3 months from today, failing which, the amount shall also entail interest at the rate of 6 % from the date of the judgment. Pending miscellaneous application(s), if any, also stand disposed of accordingly."

13. Consequently, in view of the detailed discussion made hereinabove as well as law taken into consideration, the present petition is allowed and respondent is directed to pay the petitioner the differential amount of the pre-revision basic pay and revised basic pay from 01.01.2019 up to 30.11.2019 within a period of 3 months from today, failing which, the amount shall also entail interest at the rate of 6 % from the date of the judgment. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Sandeep Sharma),
Judge

January 01, 2026
(shankar)