

CWPOA No. 1616 of 2019.

07.01.2022 Present:- Mr. Dilip Sharma, Senior Advocate with Mr. Manish Sharma and Mr. Harsh Kalta, Advocates, for the petitioners.

Mr. Rajinder Dogra, Senior Additional Advocate General, Mr. Vinod Thakur, Additional Advocate General and Mr. Rajat Chauhan, Law Officer, for the respondents-State.

Learned counsel for the petitioners has placed before the Court a copy of letter dated 25.10.2021 received by his clients from the Office of Accountant General (A&E), Himachal Pradesh whereby the claim of the petitioner has been declined on the basis of some correspondence/letter sent by the 2nd and 3rd respondents.

Records reveal that it was the respondents themselves, who had placed the instructions dated 27.08.2021 on record acknowledging and atoning to the claim of the petitioners, as is evident from paragraphs No.11 to 14 of the aforesaid instructions which read as under:-

“11.The applicant has also requested the DRDA for revising retirement dues of her husband in view of above directions. It is submitted that as per information furnished by Deputy Director-cum-Project Officer, DRDA Solan, the gratuity to the tune of Rs. 3,42,885.00/-for service period rendered by Raghubir Chand under DRDA stood paid to him on the basis of last pay drawn by him prior to date of his merger. The matter regarding payment of revised Gratuity in pursuance of directions of the Department dated 29.05.2020 on the basis of his last pay at the time of Superannuation on 31.03.2016 is being forwarded for the authorization of the Accountant General, H.P. Accordingly, differential amount of Gratuity and as well as Leave Encashment will be released to the applicant i.e. Smt. Prakasho Devi (copy enclosed).

12. Since CCS (Pension) Rules, 1972 was not applicable to him prior to his merger and not even after his merger, he is not to be regulated under these rules. Further, he has not opted for the NPS but has rendered contribution under CPF as such is to be regulated as per the provisions of CPF.

13. It is not out of place to mention here that petitioners at Sr. No. 2 & 5 i.e. Sh. Som Dutt Sharma and Sh. Bakshish Singh stood

Superannuated on 30.04.2020 & 31.03.2020 respectively. Subsequently, in view of latest Instructions dated 29.05.2020, the Gratuity stood released to both on the basis of last Pay Drawn at the time of Superannuation. Similarly, Leave-encashment to both has been calculated and is being released shortly.

14. Similarly, the petitioner at Sr. No. 3 & 4 i.e. Sh. Rajesh Kumar Sharma and Sh. Leela Dutt Sharma are in service and similar treatment regarding Gratuity and Leave encashment shall be given to both on their Superannuation in view of the latest directions.”

Confronted with this, learned Additional Advocate General prays for and is granted six weeks' time to take positive instructions and remedial action in the matter.

List on **25.02.2022**.

(Tarlok Singh Chauhan)
Judge

7th January, 2022.
(krt)