

Parkasho Devi vs. State of H.P.

CWPOA No. 1616/2019

10.3.2022 Present: Mr. Dilip Sharma, Sr. Advocate with Mr. Manish Sharma, Advocate, for the petitioners.

Mr. Vinod Thakur, Addl. A.G. with Mr. Rajat Chauhan, Law Officer, for the respondents-State.

On 25.2.2022, this Court passed the following order:-

Communication dated 24th February, 2022 received in the office of learned Advocate General from Joint Director, Rural Development, Himachal Pradesh Shimla has been placed on record along with communication 23rd February, 2022 sent from the Director, Rural Development Department, Himachal Pradesh to the Deputy Commissioner-cum-Chief Executive Officer, DRDA, Solan.

Learned counsel for the petitioner seeks time to go through communications and to have instructions. As prayed, matter is adjourned. List before the appropriate Bench on 10th March, 2022.

It would be noticed that accompanying the communication dated 24.2.2022 is a letter dated 23.2.2022 written by the Director, Rural Development Department to the Deputy Commissioner-cum-Executive Officer, DRDA Solan, which reads as under:-

“Please refer to your office letter No. RDA-IV-19/91-Vol.III- 6042 dated 15-02-2022 and this Department's letter of even No. dated 02.02.2022 on the subject cited above.

In this regard, it is to inform you that the instructions have already been issued regarding payment of Gratuity and leave encashment to the staff merged from DRDA in the Department vide M. No. RDD(4) DRDA Born-8563-8694 dated 09-08-2019 and further clarification has been issued in this regard by Govt. vide O. M No. RDD(4) DRDA- dated 29.05.2020 that

the notification No. Fin.) (Pen) A(3)-1/96 dated 18.9.2017 of the Department of Finance(Pension), Govt. of Himachal Pradesh related to gratuity be applied on DRDA staff ipso facto as per last pay drawn at the time of Superannuation/death. Thus same is applicable for the payment of the retirement dues including leave encashment. Earlier also, the department has given clarification to your office vide Letter No/ RDD-III-B-25/2012-17850 dated 1st March 2021. As per perusal of record the Gratuity has released to Sh. Raghubir Chand (Peon) as per last pay drawn prior to date of his merger in the RDD.

You are therefore directed to release the differential amount of gratuity to Smt. Parkasho Devi, w/o Late Sh. Raghubir Chand, as per last pay drawn at the time of superannuation within three days.”

The State has no instructions regarding release of the differential amount of gratuity to the petitioner as was otherwise instructed vide aforesaid letter dated 23.2.2022.

In such circumstances, let positive instructions be obtained by the State before the next date of hearing.

List on 17.3.2022 along with CWPOAs No. 4551/2019, 4386/2019, 5461/2019, 7965/2019, 1096/2021 & 557/2020.

(Tarlok Singh Chauhan)
Judge

10.3.2022
(pankaj)