

SANJEEV KUMAR Versus STATE OF HP AND OTHERS

CWP-10060 of 2023

09.07.2025 Present : Mr. Yudhbir Singh Thakur, Advocate, for the petitioners.

Ms. Leena Guleria, Deputy Advocate General, for the respondents-State.

Ms. Ranjan Pathania, Advocate, for respondent No.3.

Mr. K.D. Sood, Senior Advocate with Mr. Het Ram and Mr. Vivek Thakur, Advocates.

Heard. Petitioner has retired as Associate Professor (Physics) from respondent No4-College. The said college is aided by respondent No.1 to the extent of 95% of the deficit of the estimated income and the expenditure likely to be incurred on payment of salary of the approved staff. Petitioner has not been paid his due leave encashment and gratuity. Hence the grievance.

2. Learned counsel for the petitioner submits that in light of law settled down by the Division Bench of this Court and also by Hon'ble Apex Court, 95% of leave encashment due to the petitioner is to be paid by the respondent-State and remaining 5% share is to be borne by the College. As per the learned counsel, 100% of gratuity due to the petitioner is to be borne by respondent No.4-College.

3. In terms of calculations supplied by the petitioner he is entitled to leave encashment of Rs.15,17,241/-, out

of this amount Rs.5,17,241/- still remains to be paid to him. Further, according to the petitioner, he is entitled to gratuity of Rs.20,00,000/- in accordance with office memorandum dated 25.02.2022. Petitioner is yet to be paid Rs.12,50,000/- towards his gratuity.

4. Attention was also invited to an office order issued by respondent No.2-Director, Higher Education, on 19/23.03.2022 (Annexure R-1). As per this office order, an amount of Rs.28,54,778/- on account of gratuity and leave encashment in respect of present petitioner and one Smt. Anita Khanna (CWP No.9899 of 2023) had been sanctioned and released in favour of respondent No.4-College under 95% grant-in-aid.

5. The aforesaid office order does not provide a split-up of the amount with respect to the individual beneficiaries, i.e. the petitioner and Smt. Anita Khanna. Furthermore, the split-up of the amount under the two heads, gratuity and leave encashment, is also not discernible.

Learned Senior Counsel for respondent No.4 inviting attention to Clauses 6.2 and 10 of the office memorandum dated 25.02.2022 submits that the arrears on account of revision of pension/gratuity/commutation/family pension for the period w.e.f. 01.01.2016 to

31.01.2022 are payable in installments as per the instructions issued by the State.

In the background of the aforesaid factual position, let respondents No.1 and 2, as also respondent No.4, file supplementary affidavits in response to the petitioner's contentions regarding the amount due to him towards leave encashment and gratuity; the liability of respondents No.1 and 2 as well as respondent No.4 in defraying the components of the aforesaid liability; the payments already made by them to the petitioner under the said heads; and the balance amount that still remains to be paid to the petitioner. Supplementary affidavits be filed within three weeks.

List on **01.08.2025**.

Jyotsna Rewal Dua
Judge

9th July, 2025
(Pardeep)