

**Most Important**

**No.Fin (Pen) E (1)-6/2023  
Government of Himachal Pradesh  
Finance (Pension) Department  
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From

The Principal Secretary (Finance) to the  
Government of Himachal Pradesh, Shimla-2.

To

1. All the Administrative (Secretaries) to the  
Government of Himachal Pradesh.
2. All the Heads of Department  
Government of Himachal Pradesh.

**Dated: Shimla-2, the 07<sup>th</sup> Sep., 2024.**  
**Subject: - Regarding Review of judgment passed in CWP 2108/2023 titled as Bhagat  
Ram V/s HRTC etc.**

Sir,

I am directed to invite your kind attention to the letter No. 1-14/2018-51939 dated 30.08.2024 (copy enclosed) of the Ld. Advocate General, State of H.P. and also to enclose herewith a copy of judgment dated 30.08.2024 delivered by the Hon'ble Court in CMP(M)No.1140 of 2023 a/w Review Petition No.98 of 2024 & LPA No. 85 of 2024, on the subject cited above and to say that in view of the opinion of the Ld. Advocate General, H.P. and judgment dated 30.08.2024 of the Hon'ble High Court rendered in Review Petition No. 98/2024 titled as "Himachal Pradesh Road Transport Corporation V/s Bhagat Ram" and LPA No. 85/2024 titled as "State of H.P. V/s Dr. Sunil Kumar Chandel & ors." the Review Petition / LPA may be filed in all cases which are decided by the Hon'ble High Court based on Bhagat Ram case and Dr. Sunil Kumar Chandel case, immediately.

The Additional grounds as detailed at annexure-'A' may be kept in view while filing the Review Petition(s) / LPA in pursuance to Hon'ble High Court judgment dated 30.08.2024 rendered in CMP(M) No.1140 of 2023 a/w Review Petition No.98 of 2024 titled HRTC V/s Bhagat Ram and LPA No. 85/2024 titled State of H.P. V/s Dr. Sunil Kumar Chandel. The copy of annexure-'A' may be seen /downloaded from the Finance Department (Pension Wing) website [www.himachal.gov.in/finance](http://www.himachal.gov.in/finance).

**This may be given top priority being Court matter, please**

**Yours faithfully,**

**Special Secretary (Finance) to the  
Government of Himachal Pradesh.**

**Endst. No.Fin(Pen)E(1)-6/2023-Loose Dated: Shimla-2, the Sep., 2024**

Copy is forwarded to Ld. Advocate General, State of H.P.w.r.t. his above referred letter dated 30.08.2024 for information.

**Special Secretary (Finance) to the  
Government of Himachal Pradesh.**

No.1-14/2018- 57939  
Office of the Advocate General,  
State of Himachal Pradesh, Shimla.  
Dated: Shimla the 28 August, 2024.

H.P. Secretariat  
Central Registry Section  
Date: 31-8  
Document No. 56133968

To

1. The Worthy Chief Secretary to the Government of Himachal Pradesh.
2. All the Secretaries to the Government of Himachal Pradesh.

Subject: Review of judgment passed in CWP 2108/2024.

Sir,


This is brought to your notice that the Hon'ble High Court has reviewed its judgment passed in CWP No. 2108/2024, whereby the Hon'ble Court has directed to grant arrears of the pay revision/pension revision alongwith 6% interest. The review petition has been restored to its original number and would be taken up for further hearing on 25/09/2024.

It is advised that all the departments may be directed to file review petitions in the cases which were decided on the basis of Bhagat Ram Vs. HRTC and other in CWP No. 2108/2023. The Hon'ble Court has also reviewed the judgment passed in LPA No. 85/2024, whereby the State Government was directed to pay the arrears at the rate of 6%, however many other writ petitions were decided by the Court on the analogy of judgment rendered in CWP 2108/2023.

The department are advised to file review petition in all such cases so that they may not operate as res-judicata (Matter was adjudicated cannot be re-adjudicate) against the State.

The departments are advised to file review petition before 25/09/2024.

Yours sincerely,

  
(Anup Kumar Rattan)  
Advocate General,  
Himachal Pradesh.



2024:HHC:7723  
IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CMP(M) No. 1140 of 2023 a/w  
Review Petition no. 98 of 2024  
& LPA No. 85 of 2024.

Date of decision: 30/08/2024

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CMP(M) No. 1140 of 2023 & Review Petition no. 98 of 2024

Himachal Pradesh Road Transport Corporation & others  
..... Petitioners

Versus

Bhagat Ram ... Respondent

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LPA No. 85 of 2024.

State of HP & others ...Appellants.

Versus

Dr. Sunil Kumar Chandel & others ...Respondents.

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Coram:

The Hon'ble Mr. Justice M.S. Ramachandra Rao, Chief Justice.

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?<sup>1</sup>

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For the Petitioners : Mr. Vinod Kumar Gupta, Advocate,  
in RP no. 98 of 2024.

For the Respondent: Mr. Manohar Lal Sharma, Advocate.  
in RP no. 98 of 2024

For the Appellants : Mr. Anup Rattan, Advocate General  
with Mr. Sushant Kaprate, Mr. Gobind  
Korla, Additional Advocates General

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<sup>1</sup> Whether the reporters of Local Papers may be allowed to see the judgment?

with Mr. Arsh Rattan & Ms. Priyanka Chauhan, Deputy Advocates General in LPA no. 85 of 2024.

Mr. Sunny Dhatwalia, Advocate, for respondents no. 1 to 4 in LPA no. 85 of 2024.

Mr. Tek Ram Sharma, Advocate, for respondent no. 5 in LPA no. 85 of 2024.

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**M.S. Ramachandra Rao, Chief Justice (Oral)**

**CMP(M) No. 1140 of 2023**

This application is filed to condone the delay of 25 days in filing the Review Petition.

2. Since the learned Counsel for the respondent has not opposed the condonation of delay and the delay is not substantial, and sufficient cause is shown in the application seeking condonation of delay, accepting the said reasons, this application is allowed and the said delay is condoned. The application stands disposed of.

**Review Petition No. 98 of 2024**

3. Heard the learned Advocate General and learned Counsel for the HRTC.

4. This Review Petition is filed seeking review of the order passed by this Court on 31.05.2023, passed in CWP no. 2108 of 2023.

5. Learned Advocate General contends that the said Writ petition was allowed on the first date of hearing; opportunity to file a reply has not been granted and there are certain facts which were not brought to the notice of the Court. He therefore prays that the order dt.31.05.2023 passed by this Court in CWP no. 2108 of 2023 be reviewed and the matter be re-heard.

6. Though the learned Counsel for the respondent in the Review Petition opposed the review of the said order, since the review petitioner contends that proper opportunity was not given to contest the matter and that there are certain financial implications for the Corporation, we deem it appropriate to review our order dt. 31.05.2023, passed in CWP no. 2108 of 2023. Accordingly, the said order is recalled and CWP no. 2108 of 2023 is restored to the file of the Court. The Review petitioners/respondents in the Writ petition shall file reply in the matter placing all facts on record by **25.09.2024**.

7. List the Writ petition before the Regular Principal Division Bench on the said date.

**LPA No. 85 of 2024.**

8. Having regard to the aforesaid order passed in Review Petition no. 98 of 2024 recalling the order dt. 31.05.2023

passed in CWP no. 2108 of 2023 and since the said order is basis of the judgment passed by the learned Single Judge, this LPA is allowed; CWP no. 5651 of 2023 is restored to the file of this Court; and the order dt. 26.09.2023 passed in CWP no. 5651 of 2023 is set aside.

9. Reply be filed in the said Writ petition by the respondents on or before **25.09.2024**.

10. List CWP no. 5651 of 2023 alongwith CWP no. 2108 of 2023 before the Principal Division Bench on the aforesaid date.

11. Pending application(s), if any, also stands disposed of.

**(M.S. Ramachandra Rao)**  
**Chief Justice.**

**August 30, 2024**  
**(hemlata)**

**(Ajay Mohan Goel)**  
**Judge.**

Additional ground for filing review petitions in pursuance to judgment dated 30.08.2024 rendered in CMP(M) NO.1140/2023 a/w Review petition 98/2024 titled HRTC V/s Bhagat Ram and LPA No.85/2024 titled State of HP V/s Dr. Sunil Kumar Chandel

1. That the State Government of HP follows the Punjab pattern of pay scales for its employees based on Punjab Pay Commission Reports. The retirement and other benefits of Govt. employees are regulated under the CCS (Pension) Rules, 1972.
2. The State Government has framed "The Himachal Pradesh Civil Services (Revised Pay) Rules, 2022" in exercise of power conferred under Article 309 and clause (3) of Article 187 of the Constitution of India and were notified on 3<sup>rd</sup> January, 2022 and these Rules were deemed to have come into force with effect from the 1<sup>st</sup> January, 2016. Since, the Himachal Pradesh Civil Services (Revised Pay) Rules, 2022 were notified on 03.01.2022, therefore, the employees who were in service as on 01.01.2022 and thereafter, were entitled to get salary in revised pay scales. However, employees who had retired between the period 01.01.2016 to 31.12.2021 had certain arrears of pay, pension etc. accrued to them on account of revision of pay scales and it was decided that the same shall be paid in such manner as may be approved, keeping in view financial position of the Government.
3. The State Government has adopted the CCS (Pension) Rules, 1972, for its employees/pensioners, as such, the provisions for revision of pension, gratuity, commutation of pension and family pension, based on amendments made in CCS (Pension) Rules, 1972, effective from 01.01.2016, were issued vide Office Memorandum No. Fin.(Pen)A(3)-1/2021-Part-1 dated 25.02.2022. Simultaneously, the instructions for revision of pension and family pension of pre-2016 pensioners/family pensioners, w.e.f. 01.01.2016, were issued vide Office Memorandum No. Fin.(Pen)A(3)-1/2021-Part-II dated 25.02.2022. Therefore, Government pensioners (both pre-2016 and post-2016) started getting regular revised pension/family pension from the month of February 2022 onwards.
4. That the employees who got retired between the period 01.01.2016 to 31.1.2022 have already received the retirement benefits viz. pension, commutation, gratuity and leave encashment in the pre-revised pay scales under the provisions of the CCS (Pension)

Rules, 1972, the CCS (Commutation of Pension) Rules, 1981 and the CCS (Leave) Rules 1972. Hence, no disparity has been done with these pensioners.

5. That the Government employees, who have retired on or after 03.01.2022 i.e. from the date of issuance of revised pay scales, vide Notification No. Fin (PR)B(7)-1/2021 dated 03.01.2022, are entitled to the benefit of pension, gratuity, commutation and leave encashment based on the revised pay scales only. On the other hand, the Government employees who have retired between 01.01.2016 to 31.12.2021 have already received the benefits of pension, gratuity, commutation and leave encashment based on existing pre-revised pay scales, i.e. Himachal Pradesh Civil Service (Revised Pay) Rules, 2009 notified on 25.08.2009, as were applicable till the new Pay Rules were notified on 03.01.2022. Hence, the question of any kind of discrimination done between the category of employees retired before 31.12.2021 and employees retired after January 2022 does not arise.
6. That the Finance Department has modified the benefits under the CCS (Pension) Rules 1972. The minimum Pension/Family pension is enhanced from Rs. 3500/- to Rs 9000/- w.e.f. 01.01.2016. The Gratuity limit has been enhanced from Rs. 10 lakh to Rs. 20 lakh w.e.f. 01.01.2016. Factually, employees who have retired between the period 01.01.2016 to 31.01.2022 have already received entire benefit of pension, commutation, gratuity and leave encashment at the time of their retirement under the pre-revised pay scales. Now, they are only entitled to arrears of differential part of Revised Pay/Pension, etc. due to retrospective revision of pay/pension w.e.f. 01.01.2016.
7. That due to revision of pay/pension w.e.f. 1.1.2016, the total arrears on account of pay, pension, gratuity, commutation, family pension and leave encashment for the period 01.01.2016 to 31.12.2021 amount to Rs. 16599.90 crore. An amount of Rs. 4192.43 crore and Rs. 1450.44 crore of pay and pension revision arrears were adjusted against the interim relief paid to the employees/pensioners. Therefore, the total balance arrears of pay/pension etc. as on date of revision was Rs. 10957 Crores.
8. That the State Government has already paid first installment of pay arrears amounting to Rs. 50,000/- to Class- A to Class-C and Rs. 60,000/- to Class-D, categories of employees, vide letter No. Fin(PR)B(7)-1/2021- loose dated 17.09.2022 (Annexure A-I) and also paid pension/family pension arrears @ 20%, subject to maximum of Rs.50,000/- and 20% gratuity arrears vide Office Memorandum No. Fin.(Pen)A(3)-



1/2021-Part-1-loose dated 17.09.2022. On this account, the State Government has spent Rs. 1306 crores on payment of pay/pension etc. arrears.

9. In addition, the State Govt. has released additional installment of pension and family pension arrears @ 35% to the pensioners of age group of 75 years and above, 20% to pensioners of group 70 years to 75 years, 18% to pensioners of age group 65 years to 70 years and 15% to pensioners less than 65 years vide Office Memorandum No. No. Fin.(Pen)A(3)-1/2021 dated 13 March 2024 and Rs.470 Crore was spent on payment of arrears. Further, State Govt. has recently released additional arrears @ 50% of balance arrears (45%), to the pensioners who have attained the age of 75 years and above vide OM of even number dated 28.08.2024 and Rs. 100 crores was spent this account. Accordingly the State Government is releasing the arrears in phased manner.
10. That the HHC in the case of Surinder Singh, Dr. Sunil Kumar Chandel etc. has relied upon the judgment passed in Bhagat Ram case in CWP No.2108 of 2023 titled Bhagat Ram V/s HRTC and CWP No.2421 of 2023 titled Amar Singh V/s HRTC. The Government employees/retirees are governed by the Government Rules issued under Article 309 of the Constitution of India. On the other hand, the HRTC being an autonomous organization, its employees are governed by the specific service rules/bye laws of the said organization. Hence, the Hon'ble High Court judgment rendered in Bhagat Ram Case of HRTC may not be applicable to the employees/retirees of the State Government.
11. That pension is a retirement benefit, which is granted by the State to the Government employees for rendering services to the State. The State Government is vested with the power to make laws for the grant of pensions under Entry 42, List II of Schedule VII of the Constitution of India, provides that "State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State." This provision empowers the State Legislature to make laws regarding State pensions. This means that the State Government has the authority to pass orders on disbursement of pensions to the employees from the Consolidated Fund of the State.
12. That the retirement benefits of the Government employees are processed and determined by the concerned Department/Head of Office in accordance with the provisions of the CCS (Pension) Rules, 1972 as were/are applicable at relevant point of time. In this regard, Rule 5(1) of CCS (Pension) Rules, 1972 provides that "any claim to pension or family pension shall be regulated by the provisions of these Rules in force at the time when a Govt. servant retires or retired or is discharged or is allowed

to resign from service or dies as the case may be." In terms of Rule 5 above, the Govt. employees retired between the period 01.01.2016 to 31.12.2021/31.01.2022 have received entire benefits viz. pension, Gratuity, commutation, leave encashment in accordance with CCS(Pension) rules, 1972, CCS(Commutation) rules, 1981 and CCS(Leave) rules, 1972 under the per revised pay scales namely HP Civil Service (revised) Pay Rules, 2009. -

13. That there are no specific provisions existed under H.P. Civil Services (Revised Pay) Rules, 2022, the CCS (Pension) Rules 1972, the CCS (Leave) Rules, 1972 and the CCS (Commutation of Pension) Rules, 1981, which may allow any interest on the accrued arrears of pay, pension, leave encashment and commutation. Therefore, the directions of the Hon'ble High Court to pay interest @ 6% on pay/pension etc. arrears are contrary to the statutory provisions of the aforementioned Rules.
14. That in the year 2009, when the pay scales/pension etc. of employees/pensioners were revised from 01.01.2006, the pay, pension, gratuity and leave encashment arrears were released in installments over a span of four years during Financial Year 2009-2010 to Financial Year 2012-2013 as per the availability of funds with the Government at that time.
15. That the Hon'ble Apex Court of India in Civil Appeal No. 7427 of 2011 titled as Punjab State Co- Operative Milk Producers Federation Ltd. & Anr. Vs Balbir Kumar Walia & Ors. has held that financial stringency is a valid ground for denial of the arrears and grant of higher pay. Further, in Civil Appeal No. 5114 of 2022 titled as the State of Tripura & Ors. Vs Smt. Anjana, the Hon'ble Apex Court observed that the financial burden on the State can be a valid ground to fix a cutoff date for the purpose of payment of revision of pension and fixing a date for cut off is the prerogative and domain of the Government.
16. That in State of Punjab and Ors. Vs. Amar Nath Goyal and Ors.; (2005) 6 SCC 754 and State of Bihar and Ors. Vs. Bihar Pensioners Samaj; (2006) 5 SCC 65, the Hon'ble Supreme Court observed that the financial burden on the State can be a valid ground to fix a cutoff date for the purpose of payment of revision of pension. The Apex Court further observed that fixing of a cutoff date for granting of benefits is well within the powers of the Government as long as the reasons therefore are not arbitrary and are based on some rational consideration. .

The issue raised in the Writ Petitions read above was covered in Civil Appeal No. 5114 of 2022 (The State of Tripura & Ors. Vs Smt. Anjana Bhattacharjee & Ors.) In that

particular case, the Hon'ble Supreme Court had observed that a conscious policy decision was taken by the State Government to grant the benefit of revision of pension notionally from 01.01.2006 or from the date of superannuation till 31.12.2008 and to pay/grant the benefit of revision of pension actually from 01.01.2009, which was based on their financial crunch/financial constraint. Hence, the Hon'ble Supreme Court allowed the Appeal and set aside the order passed by the High Court striking down Rule 3(3) of the Tripura State Civil Services (Revised Pension) Rules, 2009. This stand taken by the Hon'ble Apex Court is the Settled Law.

17. That the Hon'ble High Court vide judgment dated 30.08.2024 has allowed the review petition No.98/2024 titled HRTC & Ors V/s Bhagat Ram and decided to review the judgment dated 31.05.2023 passed in CWP. No.2108/2023 titled Bhagat Ram V/s HRTC. Accordingly, the HHC has ordered the review petitioners/respondents to file a reply in the writ petition placing all facts on record by 25.09.2024. Similarly, the Hon'ble High Court vide judgment dated 30.08.2024 in LPA No.85/2024 titled State of HP & Ors V/s Dr. Sunil Kumar Chandel, has allowed the LPA and set aside the order dated 26.09.2023 passed in CWP No.5661/2023 titled Dr. Sunil Kumar Chandel V/s State of HP & Ors. and the respondents are directed to file a reply in the said writ petition on or before 25.09.2024.

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