

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.1957 of 2021

Decided on: 31st May, 2023

Prahalad Chand

.....**Petitioner**

Versus

State of H.P. and others

.....**Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioner: Mr. Devender K. Sharma, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General
with Mr. Y.P.S. Dhaulta and
Mr. Rupinder Singh Thakur, Additional
Advocates General.

Jyotsna Rewal Dua, Judge

CMP No.6629 of 2023

Allowed and disposed of.

CWP No.1957 of 2021

With the consent of learned counsel for the parties, the matter is taken up for hearing at this stage.

2. The petitioner has filed the present petition for the grant of following substantive reliefs: -

- “(i). That a writ in the nature of certiorari may very kindly be issued and Annexure P-2, dated 18.3.2021 may be quashed and set aside.*
- (ii). That a writ in the nature of mandamus may very kindly be issued thereby directing the respondents to send the service book of the petitioner for retirement benefits on*

¹ Whether reporters of print and electronic media may be allowed to see the order? Yes.

the basis of pay fixation dated 5.1.2011 (Annexure P-1).”

3. The gist of the petitioner’s case is that he was granted benefit of bunching of increments by the respondents by counting initial ad hoc services rendered by him. However, later on vide the impugned office order dated 18.03.2021 (Annexure P-2), the respondents sought to recover this benefit from him. This action has been impugned herein.

4. The respondents in their reply, have not disputed that the benefit of bunching of increments was granted to the petitioner by counting his initial ad hoc services. According to the respondents, this benefit was wrongly granted to the petitioner as ad hoc service rendered by him could not have been considered for bunching of increments.

5. It is not the case of the respondents that the petitioner had misrepresented to them at any point of time. The respondents had themselves granted benefit of bunching of increment to the petitioner by counting his initial ad hoc service. This Court while deciding **CWPOA No.7531 of 2019 (Madan Lal and others Vs. State of H.P.)** on 30.12.2022, has already held that the increments earned by the employees for the duration of their ad hoc

service, are liable to be bunched for the purpose of fixation of their pay in the revised pay scale. The issue of recovery of monetary benefit is also covered by the judgment dated 24.03.2020, rendered by a Division Bench of this Court in ***CWPOA No. 3145 of 2019 (S.S. Chaudhary Vs. State of H.P. and others and connected matters)***. The case of the petitioner is squarely covered under the stipulation indicated therein.

6. In view of the above, the present petition is allowed. The impugned office order dated 18.03.2021 (Annexure P-2) is quashed and set aside. The respondents are directed to consider the case of the petitioner afresh in light of aforesaid judgments passed in *Madan Lal's & S.S. Chaudhary's case, supra* and pass appropriate orders, in accordance with law, within a period of six weeks from the date of receipt of copy of this order. The decision so arrived at, shall also be communicated to the petitioner.

Pending miscellaneous application(s), if any, also to stand disposed of.

May 31, 2023
Mukesh

Jyotsna Rewal Dua
Judge