

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**COPC No.197 of 2022 in
CWPOA No.5378 of 2019
Decided on: 02.05.2025**

Bishan Singh Chandel ... Petitioner

Versus

Sh. Balwan Chand and another ... Respondents

Coram

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

Whether approved for reporting?¹Yes

For the petitioner	:	Mr. Sanjeev Bhushan, Senior Advocate, with Mr. Rajesh Kumar, Advocate.
For the respondents	:	None for respondent No.1. Mr. Rajpal Thakur, Additional Advocate General, for respondent No.2-State.

Ajay Mohan Goel, Judge (Oral)

As none has put in appearance on behalf of respondent No.1, said respondent is ordered to be proceeded against *ex parte*.

By way of this contempt petition, the petitioner alleges willful disobedience of the directions passed by this Court while deciding CWPOA No.5378 of 2019, titled as Bishan Singh Chandel Versus Himachal Pradesh University and another. This writ petition was disposed of by Hon'ble Coordinate Bench of this Court in the following terms:-

"In view of above discussion, petitioner's claim for retrospective promotion to the post of Planning & Development Officer w.e.f. 01.09.2014 is held to be not tenable. However, respondent-University is directed to

¹ Whether reporters of the local papers may be allowed to see the judgment?

release the pay and allowance alongwith consequential benefits to the petitioner for discharging the duties of Planning & Development Officer w.e.f. 12.11.2014 to 31.03.2015, within a period of six weeks from today.”

2. Learned Senior Counsel appearing for the petitioner submitted that the petitioner superannuated on 31.03.2015 while discharging the duties of Planning & Development Officer. Despite this fact, the petitioner is not being paid the pension on the basis of the last pay drawn by him while performing his duties as Planning & Development Officer, but his pension has been determined on the basis of actual post held by him. Learned Senior Counsel submitted that in the light of the judgment passed by this Court, in terms whereof, the respondent-University was directed to release the pay and allowances alongwith consequential benefits to the petitioner for discharging the duties of Planning & Development Officer w.e.f. 12.11.2014 to 31.03.2015, the intent of the Court was very clear that this included the pensionary benefits also because the pensionary benefits obviously come within “consequential benefits”. Learned Senior Counsel also referred to the CCS (Pension) Rules, which were prevailing at the time when the petitioner retired and by referring to the CCS (Pension) Rule 49 (2), learned Senior Counsel submitted that in terms thereof, the pension obviously has to be calculated by taking the average of all emoluments whichever are

beneficial to the employee and therefore also, the intent is that the pension has to be calculated by taking into consideration the last emoluments as were being drawn by a retiring incumbent and by referring to the definition of the word 'emoluments' in Section 33 as well as 'average emoluments' learned Senior Counsel has submitted that there is no ambiguity, in terms thereof, as to what is to be the basis for determining the pension of a retiring officer.

3. Having heard learned Senior Counsel for the petitioner, this Court is of the considered view that it cannot be said that there is any willful disobedience of the directions passed by the Court in CWPOA No.5378 of 2019, by the respondents by not calculating the pension of the petitioner on the basis of salary of the post of Planning & Development Officer.

4. A perusal of the judgment passed by this Court demonstrates that the claim raised by the petitioner was that the respondent-University be directed to promote him to the post of Planning & Development Officer. According to the petitioner, the University was extracting the work of Planning & Development Officer from him w.e.f. 12.11.2014 till he superannuated on 31.03.2015.

5. To cut the issue short, Hon'ble Coordinate Bench of this Court while deciding the writ petition, dismissed the prayer of the

petitioner for retrospective promotion to the post of Planning & Development Officer w.e.f. 01.09.2014. Hon'ble Coordinate Bench was pleased to direct that for the interregnum, i.e. 12.11.2014 to 31.03.2015, the petitioner be paid the pay and allowances alongwith consequential benefits for discharging the duties of Planning & Development Officer.

6. This Court is of the considered view that on the strength of this observation of the Hon'ble Coordinate Bench, it cannot be said that any mandamus was issued or can be construed to have been issued in law or otherwise that after his retirement the pension of the petitioner was to be calculated on the basis of the salary that was payable to a Planning & Development Officer. In fact, all that the Hon'ble Coordinate was pleased to order was that as it was the grievance of the petitioner that despite the fact that w.e.f. 12.11.2014 to 31.03.2015, the work of Planning & Development Officer was extracted from him by the University, yet he was paid the wages of the post he was otherwise holding and therefore, the University was directed to compensate the petitioner by paying him the pay and allowances alongwith consequential benefits of the post of which the work was performed by him w.e.f. 12.11.2014 to 31.03.2015.

7. It is not the case of the petitioner that after the judgment of this Court, the University has not released the pay and

allowances alongwith consequential benefits of the post of Planning & Development Officer w.e.f. 12.11.2014 to 31.03.2015. In fact, in case the contention of the petitioner as is being raised by learned Senior Counsel is accepted, then it may lead to a situation wherein any person on the verge of superannuation can be ordered or otherwise called upon to perform the duties of a higher post and after rendering such duties for 72 hours, 48 hours and 24 hours as the case may be and thereafter, such an incumbent shall be demanding pension on the basis of the pay of the higher post, duties whereof were being performed by him, when he superannuated. This defeats the very purpose of promotion etc. because otherwise also, in case what is being contended by learned Senior Counsel is deemed to be a willful disobedience of the judgment passed by the Court, then what the petitioner did not directly get from the Hon'ble Coordinate Bench, he shall be getting in these proceedings.

8. Accordingly, in the light of above observations, this Court does not finds any merit in the present proceedings, as there is no willful disobedience of the judgment passed by this Court and the same are closed. Notices stand discharged.

(Ajay Mohan Goel)
Judge

May 02, 2025
(Rishi)

