# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
# ORDINARY ORIGINAL CIVIL JURISDICTION

## WRIT PETITION NO. 915 OF 2008

Mohammed Ali Ishak Patel ]
aged 60 years ]
c/o Dr. Sheikh Mukhtar ]
Plot No.25/1, Bari Colony ]
Madani Gate, Next to Takadkar Society, ]
Aurangabad-431001 ].....Petitioner

*Versus*

1. Dr. Ambedkar College of Commerce and ]
Economics through the Principal ]
Wadala, Mumbai-400031. ]
]
2. Secretary ]
People's Education Society, ]
Anand Bhavan, Fort, Mumbai-400031. ]
]
3. The Education Inspector, ]
Greater Mumbai, South Zone, ]
Mumbai-400007. ]
]
4. Deputy Director of Education, ]
Greater Mumbai Jawahar Bhavan, ]
Marine Drive, Mumbai. ]
]
5. The Accountant General, Maharashtra-1, ]
Mumbai-400020. ]....Respondents

.....

Ms. Rishika Agarwal a/w Mr. Tanmay Vasane, for the Petitioner.

Mr. Vikrant Parashurami, A.G.P., for the Respondent Nos.3, 4 and 5-State.

.....



MANISHA BALKRISHNA TALEKAR
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CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.

DATE : 5th NOVEMBER 2026

JUDGMENT [PER SANDESH D. PATIL, J.] :-

1. By the present Writ Petition, the Petitioner is seeking a relief of quashing and setting aside the letters dated 27th October 2006 and 7th December, 2007 which are annexed at Exhibit-H and Exhibit-O respectively to the Petition. The Petitioner is also seeking a writ of mandamus for directing the Respondent Authorities to sanction the Petitioner's pension application and compute the pension and gratuity amount of the Petitioner with the starting date of his continuous employment as 19th July 1973. This Court vide Order dated 17th July, 2008 had issued Rule in this Petition. The matter is placed before us for final hearing. It is the case of the Petitioner that the Petitioner after graduating with the degree of Bachelor of Commerce on 17th July, 1973 started working as an Assistant Teacher in Moinul-Uloom High School, Aurangabad. The Petitioner was in the said School for approximately four years from the period 19th July 1973 to 31st March 1974 and again from 2nd July, 1974 to 4th July, 1977. From the year 1977, the Petitioner obtained Degree of Masters



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of Commerce. The Petitioner thereafter from 4th July, 1977 to 15th June, 1978 worked as Assistant Teacher in Burhani College of Arts and Commerce, Nesbit Road, Mazgaon, an aided junior college. The Petitioner worked at an aided post in the said college. Later on from 16th June, 1978 to 19th June, 1980 the Petitioner worked as Assistant Teacher in Anjuman-I-Islam's Akbar Peerbhoy College, an aided junior college. On 1st July, 1980, the Petitioner started his service at the Respondent-College as a permanent junior lecturer. It is to be noted that the Respondent-College was an aided junior college. On 3rd July, 1999 the Petitioner was upgraded to senior scale as per Government Circular dated 16th October, 1992 with effect from 1st July, 1992. The Petitioner retired on 31st January, 2005 upon reaching superannuation, as an Assistant Teacher in Commerce after completing a period of 32 years and 6 months in service. The Petitioner thereafter, on 22nd August, 2006 submitted his pension records to the Respondent No.3. The Respondent No.3 vide a letter dated 27th October, 2006 informed the Respondent No.1 that the Petitioner's Application cannot be granted. The Petitioner thereafter, made an Application to the Pension Adalat against the refusal to grant pension. The Petitioner relied upon the pension approval



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granted to his colleague, Mr. Munnalal Premraj Pandit, who was similarly untrained upon his retirement. The Division Commissioner of Pension Adalat wrote letters to Respondent No.3 seeking clarification regarding this un-uniform approach. On 7th December, 2007, the Petitioner received a letter from the Pension Adalat stating that the Petitioner is not entitled to pensionary benefits on the basis of Rule 6 of the Pension Scheme under Government Circular dated 4th November, 1968 (Page 123 of the Petition).

2. Heard the learned Counsel appearing for the parties. Perused the documents on record.

3. Learned Counsel for the Petitioner submitted that similarly situated person namely Mr. Munnalal Premraj Pandit was granted pensionary benefits inspite of the fact that he was an untrained teacher. She submitted that the Petitioner has put up nearly 32 years and 6 months in the service and hence he could not be denied the benefits. She submitted that although the Petitioner had possessed qualification of Masters of Commerce yet he did not possess the qualification of D.Ed. or B.Ed. which is considered as training qualification/ course for teaching in School. However, same cannot



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be the only ground for rejection of the pensionary benefits. She submitted that salary of the Petitioner was paid throughout by the Respondent-State of Maharashtra and therefore, only on the ground that the Petitioner was untrained, he could not be denied the benefits of the pension. She submitted that the act of the Petitioner is contrary to the law laid down by this Hon'ble Court in various judgments and that since the Petitioner has put up his entire life to serve the institution and was regularly paid salary by the State of Maharashtra, pensionary benefits ought not to have been denied to the Petitioner.

4. Learned Counsel for the Respondent-State however, denied that the Petitioner is entitled to any pension. He submitted that the Petitioner has not completed post training course i.e. B.Ed. or its equivalent recognized by the Department as training qualification and therefore, was not treated to be a trained teacher for the purpose of pensionary benefits. He submitted that the after the Government Resolution dated 4th November, 1968, teachers who have completed more than two years post training service are treated as holding permanent post substantively for the purpose of pension scheme. He



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submitted that the Petitioner has not completed training qualification and hence, he is not eligible for the pensionary benefits. He prayed for dismissal of this Petition.

5. We have gone through the Judgments of this Court in ***K. V. Krishnan Vs. RGE State of Maharashtra and Ors.***[1] which is annexed at Exhibit-P to the Petition. The Division Bench of this Court has observed in paragraph nos.4 as under:

> *"4. We have heard the parties to the petition. It was brought to our notice that the petitioner has rendered substantial period of service in Ramnivas Ruia College for about 18 years and was treated as confirmed full time teacher against a sanctioned post and his services were approved from time to time by the Deputy Director of Education and the said orders are placed on record. In these circumstances, in our opinion, it does not lie in the mouth of Respondents No.1 to 3 that too after retirement of the petitioner, to contend that the petitioner throughout his service was treated as untrained teacher and thus was not entitled to pension and gratuity as per Rules. Petitioner was however asked to acquire training qualification. We find that the petitioner was already confirmed and recognized full time teacher. The pension scheme would be very much applicable to the petitioner and as a consequence thereof he would be entitled to benefit of pension and gratuity. Having held as we direct respondent Nos. 1 to 3 to sanction and release the amount of pension and gratuity to the petitioner within a period of three months from the date of receipt of writ from this Court."*

1 Writ Petition No.1556 of 2000, dt. 25/08/2000, High Court of Judicature at Bombay



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6. Similar issue fell for consideration in ***Asaram Yesuji Ghogare Vs. The State of Maharashtra and Ors.***[2] wherein after considering the Judgment in ***Smt. Umabai w/o. Ramkrishna Deshmukh Vs. The State of Maharashtra and Ors.***[3], and ***Smt. Gokula Vilas Patil Vs. The Education Officer (Primary) Sangli and Ors.***[4], the Division Bench of this Court had observed in paragraph no.7 as under:

> *7. The learned Advocate for the petitioner has placed before us a copy of the communication dated 9th February, 2022, issued by the Deputy Secretary, State of Maharashtra, School Education and Sports Department, addressed to the Director of Primary Education, Education Directorate, Maharashtra State, Pune, taking cognizance of several orders passed by this Court as well as the dismissal of the Special Leave Petition and the Review Petition filed on behalf of the State in similar matters. Consequentially by the said communication, which is marked as 'X-1' for identification, the Director of Primary Education was informed that such untrained teachers, who were employed prior to 01.07.1992, were to be considered as deemed trained teachers. Similarly, considering various orders passed by this Court which were approved by the Hon'ble Supreme Court, a decision has been taken by the State of Maharashtra, that similar employees, who were appointed after 01.07.1972 as untrained teachers and have superannuated after putting in lengthy service, should be treated as a special case and they should be granted pensionary*

2 Writ Petition No.10467 of 2021, dt. 22/05/2022 High Court of Judicature at Bombay, Bench at Aurangabad

3 Writ Petition No.6143 of 2016, dt. 04/07/2019, High Court of Judicature at Bombay, Bench at Aurangabad

4 Writ Petition No.5110 of 2012, dt. 13/12/2017, High Court of Judicature at Bombay, Bench at Aurangabad



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> *benefits. No doubt, this communication is restricted only to those who have approached this Court by filing Writ Petitions.*
>
> *8. It should be the endeavour of one and all, that unnecessary litigation should be avoided and if possible necessary directions be issued in such manner that unnecessary litigation could be prevented. The case in hands is one such case wherein we find this litigation could have avoided considering the view taken by this Court, vide judgment dated 13.12.2017 in Smt. Gokula Vilas Patil (supra). It appears that the Education Department has done little to convey the said judgment to all its Departments so as to initiate appropriate steps, which would not only protect such petitioner from suffering rigors of tardy litigation, but would also curtail unnecessary litigation in court.*
>
> *9. Considering the above, we find that the direction, as issued in Smt. Umabai w/o. Ramkrishna Deshmukh (supra), needs to be issued in this case as well.*

7. Further this Court in the said Judgment had issued the following directions:

> *11. We direct respondent no.1 to circulate this order as well as judgment dated 13.12.2017 delivered in Smt. Gokula Vilas Patil (supra), to all Zilla Parishads in the State of Maharashtra so as to locate similar cases and initiate remedial steps for granting them the benefits in view of such directions so as to prevent the employees from approaching the Court and in order to curb unnecessary litigation in this Court. A specific circular stating that this law shall apply to similarly placed employees, shall be issued.*



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8. We are not impressed by the arguments of learned A.G.P. The arguments of learned A.G.P are in teeth of the Judgment dated 4th May, 2022 passed by this Court in ***Asaram Yesuji Ghogare Vs. The State of Maharashtra and Ors. (supra)***.

9. Taking into consideration the Judgment in ***K. V. Krishnan Vs. RGE State of Maharashtra and Ors. (supra)***, ***Smt. Umabai w/o. Ramkrishna Deshmukh Vs. The State of Maharashtra and Ors.*** and ***Smt. Gokula Vilas Patil Vs. The Education Officer (Primary) Sangli and Ors. (supra)*** and ***Asaram Yesuji Ghogare Vs. The State of Maharashtra and Ors.***[5], we have no hesitation to hold that the Petitioner who has put in 32 years and 6 months in his service is entitled to pensionary benefits and that the Petition deserves to be allowed. Hence, the following Order:

**ORDER**

(i) Writ Petition No.915 of 2008 is allowed in terms of prayer Clauses (a) and (b) which reads thus:

> *"a. That this Hon'ble Court be pleased to issue a writ of certiorari, or a writ, order or direction in the nature of certiorari to quash and set aside the letters dated 27th October, 2006 and 7th December, 2007, respectively (annexed to the Petition as Exhibits 'H' and 'O').*

5 Writ Petition No.10467 of 2021, High Court of Judicature at Bombay, Bench at Aurangabad



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*b. That this Hon'ble Court be please to issue a writ of mandamus, or a writ, order or direction in the nature of mandamus and direct the Respondent authorities to sanction the Petitioner's pension application and compute the pension and gratuity amount of the Petitioner with the starting date of his continuous employment as 19th July, 1973."*

10. Rule is made absolute in the aforesaid terms.

11. In view of above, Writ Petition No.915 of 2008 stands disposed of.

12. There shall be no order as to costs.

(SANDESH D. PATIL, J.) (M. S. KARNIK, J.)



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