

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5290 OF 2026

Mrs. Premlata Suresh Gore)
Age: 63 years, Occupation: Retired)
Residing at 3, Erandwane Gaothan,)
Flat No.403, Matal Chambers)
Near Mhatre Bridge, Pune - 411004) **..Petitioner**

Versus

1. State of Maharashtra)
(Higher Secondary Education)
Department) Mantralaya, Mumbai)
(Through it's Secretary))
2. The Director of Education)
(Higher Secondary Education)
Department) Mantralaya,)
Mumbai(through it's Secretary))
3. The Deputy Director of Education)
(Higher Secondary) Pune Region,)
17, Dr.Ambedkar Road, Pune 411 001)
4. Maharashtra Education Society,)
1214 - 1215, Sadashiv Peth,)
Pune 411 030 (Through it's Secretary))
5. Abasaheb Garware College)
Karve Road, Deccan Gymkhana)
Pune 411 004 (Through it's Principal)) **...Respondents**

Ms. Kumud Bhatia for the Petitioner.
Mr. Aditya Deolekar, AGP for State.

CORAM: G. S. KULKARNI &
Dr. NEELA GOKHALE, JJ.

DATE: 08 SEPTEMBER 2026.

P.C.

1. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.

2. The petitioner, who is a retired Lecturer in a Junior College, has filed the present petition seeking the grant of pension under the Old Pension Scheme. Her claim has been denied on the ground that her service as a part-time Teacher from 20 June 1992 to 30 June 2010 was not to be taken into consideration, although she was serving against an aided post. The prayers as made in the petition are required to be noted which read thus:-

“(a) This Petition be admitted and Rule be issued.

(b) This Hon'ble Court be pleased to issue Writ of Mandamus or an appropriate Writ and/or Orders, or directions in the nature of such a Writ and be pleased to set aside the Orders dated 30.10.2025 and 12.11.2025 passed by the Respondent No.3 and 5 respectively.

(c) The Respondents be directed to forthwith settle Post Retirement Monetary Benefits including her Gratuity, Provident Fund and her Monthly Pension as per the Old Pension Scheme, under Maharashtra Civil Services (Pension) Rules, 1982 and Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and provisions of General Provident Fund existed prior to 1.11.2025, for period from 01/02/2022 onwards with interest @ 18% p.a. thereon, for the Delay in releasing Post Retirement benefits to the Petitioner;

(d) Pending the hearing and final disposal of present Petition, the Respondent No.3 be directed to forthwith release the amounts of Gratuity, the Provident Fund as well as her monthly Pension from 1st February, 2022 onwards;

(e) Petitioner be awarded the costs of this Petition.”

3. The facts lie in a narrow compass:- The petitioner, who was qualified as M.A., M.Ed., was appointed as a Teacher in respondent no.5-college, which was an aided institution. She was initially appointed as a part-time Teacher pursuant to an appointment order dated 20 June 1992. She continued to work on a part-

time post upto 30 June 2010. Thereafter, with effect from 01 July 2010, the petitioner was appointed as a Lecturer on a full-time aided post, which she continued to hold until her superannuation on 31 January 2022.

4. It is the petitioner's case that, having superannuated on 31 January 2022 after rendering approximately 30 years of service, she was entitled to pension under the Old Pension Scheme. However, by a communication dated 22 April 2022, respondent no.3-Deputy Director of Education (Higher Secondary), Pune Region, Pune, rejected the petitioner's claim on the ground that her appointment on the full-time post was with effect from 01 July 2010 and, the same being subsequent to the cut-off date of 01 November 2005, she was not entitled to the benefits of the Old Pension Scheme. In these circumstances, the petitioner approached this Court by filing Writ Petition No. 51 of 2023, *inter alia*, seeking quashing and setting aside of the order dated 22 April 2022 and the subsequent communications dated 31 May 2022 and 06 September 2022, whereby she was denied the benefit of the old pension scheme. She also sought a direction to the respondents to forthwith settle her post retirement monetary benefits, including Gratuity, Provident Fund and monthly pension, for the period from 01 February 2022 onwards with interest @ 18% p.a. for the delay caused in releasing post retirement benefits. The said writ petition came to be disposed of by an order dated 14 July 2025. The said order is required to be noted which reads thus:-

“1. The Petitioner has put forth prayer clauses 11 (b), 11 (c) and 11 (d), as under :

“b) This Hon'ble Court be pleased to issue an appropriate Writ and/or Orders, or directions in the nature of such a Writ and be pleased to set aside the Orders dated 22/04/2022, 06/09/2022 & 31/05/2022 passed by the Respondent No.03 &

05 respectively.

c) The Respondents be directed to forthwith settle Post Retirement Monetary Benefits including her Gratuity, Provident Fund and her Monthly Pension for period from 01/02/2022 onwards with interest @ 18% p.a. therefore, for the Delay in releasing Post Retirement benefits to the Petitioner.

d) Pending the present Petition, the Respondent be directed to forthwith release the amounts of Gratuity, the Provident Fund as well as her monthly Pension from 1st February, 2022 onwards.”

2. The learned AGP has tendered an affidavit-in-reply dated 24th April, 2024 (from page Nos. 71 to 85). He points out that the Hon’ble Supreme Court passed an order on 12th September, 2023 in SLP (Civil) Diary No. 9059 of 2023, directing that Civil Appeal No. 6051 of 2019 be listed for hearing.

3. The learned AGP submits, on instructions, that since the Full Bench of this Court has delivered its verdict in Deshmukh Dilipkumar Bhagwan and Others vs. State of Maharashtra and Others the Petitioner’s case will be considered in the light of the directions issued by the Full Bench in Deshmukh Dilipkumar Bhagwan and Others (supra).

4. For the sake of clarity, we are reproducing paragraph No.37 of Deshmukh Dilipkumar Bhagwan and others (supra) hereunder :

“37. Under these circumstances, we answer the Reference as under :-

Question No. 1:

In the context of the right of an employee of private school or college of education to receive pensionary benefits and the corresponding liability of the Government to pay the same, only those schools and colleges of education which are receiving 100% grant-in-aid can be termed as aided institutions.

Question No. 2:

The employees who were appointed prior to 1-11-2005 in aided recognized primary, secondary schools as well as colleges of education which were receiving less than 100% grant-in-aid as on 1-11-2005 would be governed by the DCP scheme.

Question No. 3:

Similar will be the situation of the employees who were appointed prior to 1-11-2005 in aided primary, secondary and higher secondary schools as well as the colleges of education which were receiving less than 100% grant-in-aid as on 1-11-2005 but which became 100% aided before 29-11-2010 would also be governed by the DCP scheme.”

5. In view of the above, this Writ Petition is disposed of with a direction that the Petitioner’s case shall be considered in the light of the judgment delivered in Deshmukh Dilipkumar Bhagwan and others (supra). If the Petitioner is found entitled to any service benefits, the same shall be extended to her. In case of any delay in the payment of retirement benefits, the delayed amounts shall carry interest at the rate of

6% per annum, save and except, in the case of gratuity, which shall carry interest at the rate of 10% per annum in light of the statutory provision.

6. Let the decision on the Petitioner's case be taken by the competent authority within 75 days from today.

(emphasis supplied)

5. It is on the aforesaid backdrop that respondent no.3 considered the case of the petitioner and denied the grant of pension by the impugned communication dated 30 October 2025. The impugned communication is required to be noted, which read thus:-

“(Official translation of a photocopy of a LETTER, typewritten in Marathi)

Exhibit-Q

Office of the DIVISIONAL DEPUTY DIRECTOR OF EDUCATION,
Pune Division, Pune-1.

17, Dr. Ambedkar Marg, Opp. Laal Deul, Pune 411001.

web-site : www.dydpune.co.in

Email :- dydpune@gmail.com Phone :- (020) 26122217

O.No. D.D.E./Accounts-503/Pension/P.D./2025/7244 Date: 28.10.2025
30.10.2025

To,
The Principal,
MES Ababsaheb Garware College,
Karve road, Pune-4.

Subject :- Regarding the Pension case of Smt. Premlata Suresh
Gore, Assistant Teacher.

References:-1. Government Resolution No.C.P.S.-1006/ (23/06)/
S.E.-2/dated 29.11.2010 issued by the Government
of Maharashtra.
2. Government Resolution No.C.P.S.-2023/M.No.28/
TNT-6, dated 14.06.2023 issued by the Government
of Maharashtra.
3.Your Office's Proposal vide O.No. 1317/25-26, dated
24.09.2025.
4.Writ Petition No. 51/2023 filed before the Hon'ble
High Court, Mumbai.

In connection with the above-mentioned references on the above-noted subject, you are hereby informed that Smt. Premalata Suresh Gore, Assistant Teacher, was granted approval in the full-time pay scale from the part-time pay scale during the period from the date 20.06.1992

to the date 30.06.2010, thereby making her full-time teacher with effect from the date 01.07.2010. Since Smt. Premalata Suresh Gore, Assistant Teacher was appointed after the date 01-11-2005, new Defined Contributory Pension Scheme (DCPS / NPS) is applicable to her. If regular contribution deductions have been made for Smt. Premalata Suresh Gore, Assistant Teacher under the new Defined Contributory Pension Scheme and if the pension amount under the new Defined Contributory Pension Scheme (DCPS / NPS) has been transferred to her PRAN account under the NPS scheme, then, a proposal for withdrawing the final balance amount standing to her PRAN Account number should be submitted to the Education Officer (Secondary), Pay and Provident Fund Unit, Pune.

Moreover, if the DCPS amount has not been transferred to NPS, a proposal to withdraw the remaining final balance amount should be submitted to the Superintendent, Pay and Provident Fund Unit, Pune. Since the Defined Contributory Pension Scheme is applicable to Smt. Premalata Suresh Gore, the proposal of Smt. Premalata Suresh Gore for gratuity in accordance with the Government Resolution referred to hereinabove at Sr.No. 2, should be submitted to this Office immediately.

(Signature Illegible)

30.10.2025

(Dr. Ganpat More)

Deputy Director of Education,
Pune Division, Pune-1.

Copy for information :-

1. Hon'ble High Court, Mumbai.
2. Director of Education (Secondary & Higher Secondary), M.S., Pune-1.
3. Superintendent, Pay & Provident Fund Unit (Secondary), Pune
4. Smt. Premalata Suresh Gore, Assistant Teacher, MES Abasaheb Garware College, Karve Road, Pune."

(emphasis supplied)

6. It is in these circumstances that the present writ petition has been filed praying for the reliefs as noted hereinabove. A reply affidavit has been filed on behalf of the respondents opposing the petition. The stand taken in the reply is no different from that which was taken in the earlier writ petition filed before this Court and as set out in the impugned communication (supra). The respondents have failed to duly consider that the part-time service rendered by the petitioner on a fully aided post is required to be considered in accordance with the provisions of the Maharashtra Civil Services (Pension) Rules, 1982 [for short, "the

MCS (Pension) Rules”], as applicable to the petitioner under Rule 19 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short, “**1981 Rules**”). Accordingly, the service rendered by the petitioner as a part-time Teacher from 20 June 1992 till 30 June 2010 is not taken into consideration requiring 50% of such service to be counted for the purpose of determining the qualifying service for the grant of pension. We note that the reply affidavit has been filed by Mr. Ganpat Shankarrao More, Deputy Director of Education, Pune Region, Pune, wherein it has stated raising such contention that the part-time service rendered by the petitioner cannot be taken into consideration. However, the affidavit is completely silent on the applicability of the relevant rules and, most importantly, Rule 57 of the MCS (Pension) Rules, which is applicable to the present case.

7. Ms. Bhatia, learned counsel for the petitioner, would submit that the impugned order passed by the Deputy Director of Education is mechanical, which fails to take into consideration the settled principles of law laid down by the Full Bench of this Court in **Deshmukh Dilipkumar Bhagwan & Ors. vs. State of Maharashtra & Ors.**¹. It is further submitted that the Deputy Director of Education has avoided to consider, in its true perspective, the order dated 14 July 2025 passed by this Court (supra). Ms. Bhatia further submits that the impugned communication is wholly contrary to the provisions of the MCS (Pension) Rules. She has placed reliance on the decision of the Full Bench in **Deshmukh Dilipkumar Bhagwan & Ors. vs. State of Maharashtra & Ors.** (supra), as also on

1 2019(3) Mh. L.J. 903

the recent decision of the Division Bench of this Court in **Smt. Vanita Rajendra Bhadule vs. The State of Maharashtra & Ors.**², to contend that the part-time service rendered on an aided post is required to be taken into consideration as qualifying service and that 50% of such service is required to be counted for the purpose of pension. It is submitted that, by taking such period into consideration, the petitioner's appointment falls prior to the cut-off date, i.e. 01 November 2005, and consequently, the petitioner would be entitled to the benefit of the Old Pension Scheme.

8. On the other hand, Mr. Deolekar, learned AGP, has placed reliance on the reply affidavit to contend that the petitioner is not entitled to the benefits of the Old Pension Scheme, as the part-time service rendered by the petitioner cannot be taken into consideration, for the reasons as set out in the reply affidavit. It is also his submission that the petitioner has availed the benefit of the 'Defined Contribution Pension Scheme' (DCPS) and, therefore, the old pension scheme cannot be made applicable to the petitioner.

9. We have given our anxious consideration to the rival contentions as also we have perused the record.

10. At the outset, we may observe that the Deputy Director of Education, Mr. Ganpat More, appears to be habitual in passing mechanical orders and in not adhering to the applicable rules as well as the decisions of this Court. We have repeatedly come across cases where the said incumbent has acted in complete

2 Writ Petition (Stamp) No. 18703 of 2024, decided on 25 June 2026 by Kolhapur Circuit Bench

defiance of the law, thereby causing serious prejudice to teachers who are consequently required to knock the doors of this Court. This is not the first case. We have repeatedly come across cases where such arbitrary orders have been passed by the said incumbent and, consequently withdrawn. We may refer to the proceedings in Writ Petition No. 7641 of 2026, wherein we recently passed the following order:-

“1. The facts of the case of this petition are gross, the Deputy Director of Education Dr. Ganpat More has passed a totally high handed, arbitrary and illegal order, we intend to pass appropriate orders, including to consider whether the said incumbent is fit to discharge duties as a public servant.

2. However, at the request of Mr. Deolekar, learned AGP, stand over to 8th September 2026.”

11. Thereafter, the order impugned in the said proceedings came to be withdrawn. The aforesaid observations and made more particularly in view of the fact that the said incumbent having avoided to consider the effect of the order dated 14 July 2025 passed by the Division Bench of this Court in the petitioner's earlier writ petition, wherein the Division Bench had categorically observed that, the decision of the Full Bench, would be required to be taken into consideration, for the purposes of determining qualifying service. We find that the impugned communication/order dated 30 October 2025 even remotely does not address the issue which the said incumbent was directed to consider pursuant to the order dated 14 July 2025 passed by this Court. The order is, to say the least, wholly mechanical, apart from being arbitrary and high-handed. It is contrary to several decisions of this Court as well as to the requirements of the MCS (Pension) Rules, thereby causing harassment to the petitioner.

12. We may observe that there is no dispute insofar as the petitioner's appointment as a part-time Teacher in the aided junior college, is concerned. She served as a part-time Teacher from 20 June 1992 to 30 June 2010 and thereafter, from 01 July 2010 until her superannuation, continued to discharge her duties as a full-time Teacher on a fully aided post.

13. The Full Bench of this Court in **Deshmukh Dilipkumar Bhagwan & Ors. vs. State of Maharashtra & Ors.** (supra), has held that the service rendered by an employee of an aided school at the time of their retirement, would also count towards the qualifying service for pension. Thereafter, a consistent view has been taken by this Court in several decisions (see: **Shivappa s/o. Bhujangappa Bembale vs. State of Maharashtra**³, **Mukund s/o Bapurao Dhadkar vs. State of Maharashtra & Ors.**⁴, **Shalini Asaram Akkarbote vs. State of Maharashtra**⁵, **Purushottam Harishchandra Shirsekar & Anr. vs. The State of Maharashtra & Ors.**⁶, **Nilesh s/o. Namdev Gurav & Ors. vs. The State of Maharashtra & Ors.**⁷, **Sunanda Sahatragun Ingale vs. The State of Maharashtra & Ors.**⁸, **Punjabari Baburao Dighe And Others Vs The State Of Maharashtra And Others**⁹, **Renuka Chandrabhan Umredkar vs. State of Maharashtra & Ors.**¹⁰, **Dilip Rana Randive vs. State of Maharashtra & Ors.**¹¹, **Smt. Vanita Rajendra Bhadule (Aka. Vanita**

3 2005(3) Mh LJ 709

4 2016 SCC OnLine Bom 98

5 Writ Petition No. 8289 of 2013, decided on 29 April 2014

6 Civil Writ Petition No. 2538 of 2021, decided on 07.09.2021

7 Civil Writ Petition No. 4748 of 2019, decided on 01.10.2021

8 Writ Petition No. 10036 of 2010, decided on 07 April, 2026

9 Writ Petition No. 12902 of 2018, decided on 06 May 2022 (Aurangabad Bench)

10 2021 SCC OnLine Bom 9587

11 Writ Petition No. 14880 of 2022, decided on 06 December 2023

Somnath Dikole) vs. The State of Maharashtra & Ors. (supra)).

14. We may observe that Rule 19 of the 1981 Rules provides for the grant of pension. Rule 57 of the MCS (Pension) Rules 1982, provides for 'non-pensionable service' providing that one-half of an employee's previous continuous service is allowed to be counted for pension, as provided under Note 1 to Rule 57 of the MCS (Pension) Rules, 1982. Rule 57 reads thus:-

"57. Non-pensionable service. As exceptions to Rule 30, the following are not in pensionable service :-

- (a) Government servants who are paid for work done for Government but whose whole-time is not retained for the public service,
- (b) Government servants who are not in receipt of pay but are remunerated by honoraria,
- (c) Government servants who are paid from contingencies,
- (d) Government servants holding posts which have been declared by the authority which created them to be non-pensionable,
- (e) Holders of all tenure posts in the Medical Department, whether private practice is allowed to them or not, when they do not have an active or suspended lien on any other permanent posts under Government.

Note 1.-In case of employees paid from contingencies who are subsequently brought on a regular pensionable establishment by conversion of their posts, one-half of their previous continuous service shall be allowed to count for pension.

Note 2.-In the case of persons who were holding the posts of attendants prior to 1st April, 1966, one-half of their previous continuous service as attendants, shall be allowed to count for pension."

(emphasis supplied)

15. Thus, considering the principles of law discussed hereinabove, we are of the clear opinion that the part-time service rendered by the petitioner on the post of Assistant Teacher from 20 June 1992 to 30 June 2010 is required to be reckoned as qualifying service for pension and added to the regular service

rendered by the petitioner as a full-time Lecturer in the Junior College from 01 July 2010 till 31 January 2022. The petition, therefore, deserves to be allowed by holding that the petitioner has become eligible for the grant of pension under the Old Pension Scheme. Although the affidavit mechanically states that the petitioner has received benefits under the DCPS, the petitioner has, in fact, not received any such benefits.

16. In this view of the matter, the petition is allowed in terms of prayer clauses (b) and (c). The arrears of pension shall, however, be paid to the petitioner along with interest at the rate of 8% per annum. The arrears of pension be disbursed to the petitioner within a period of four weeks from the date on which a copy of this order is made available. Ordered accordingly.

17. Before parting we need to make further observations in regard to the actions of the incumbent Deputy Director of Education, Mr. Ganpat More, which, in our opinion, are quite gross and reflect brazen illegality. It cannot be that he is unaware of the principles of law and the applicable rules, particularly when he is discharging public duties in the important post of Deputy Director. In fact, he has abused the authority and powers vested in him causing the employees of schools like the petitioner to approach the Courts and litigate. In the present case, he has completely disregarded not only the law as laid down by the Full Bench, but also the specific order passed on the petitioner's earlier writ petition, which was required to be taken into consideration while passing the impugned order. We find that he not only referred to the said order but also conveniently neglected to take note of the observations made by this Court. This more

particularly, when the orders passed by this Court on the petitioner's previous writ petition were plain, unambiguous and clear. Had such observations made by the Court been taken into consideration, the impugned order could never have been passed. We are accordingly of the opinion that Mr. Ganpat More, Deputy Director, in passing the impugned order, has acted not only in an excessively arbitrary but also in a highhanded manner abusing the authority vested in him thereby requiring senior citizen like the petitioner to repeatedly knock the doors of the Court. This is sheer harassment of the petitioner who is a retired employee and a senior citizen. We find that there is a total lack of sensitivity of the incumbent officer Mr. Ganpat More in dealing with issues concerning pension, and the cases of senior citizens not only in the present case but also as noted by us in the other cases. The duty of the incumbent officer was certainly to act with sensitivity, empathy and compassion. On the contrary, we find high-handedness, arbitrariness, and a total lack of public commitment on the part of the incumbent officer.

18. We would be thus failing in our duty if we do not make appropriate observations and for an action to be taken insofar as Mr. Ganpat More, Deputy Director of Education, is concerned, this particularly in view of the highhanded manner in which he has acted as discussed hereinabove. We are of the clear opinion that a public servant who has shown utter disregard to the rule of law, to the orders passed by this Court, and who has no sensitivity and conscience in dealing with the pension issues of senior citizens as also who has caused such unwarranted harassment to the citizens, in our opinion, cannot be said to be a fit

person to discharge public duties on such important post. We accordingly direct the Secretary, School Education and Sports Department, Government of Maharashtra, Mantralaya, to withdraw the charge of Deputy Director of Pune Region, Pune, from Mr. Ganpat More. He be posted to a suitable department of the State Government, and the discharge of his official duties as a public servant be kept under strict vigilance by the appropriate higher authorities.

19. We were reluctant to pass this order, however, the pain and agony of pensioners and similarly placed persons repeatedly reaching this Court and the Court requiring to adjudicate on such issues is far more concerning as also there ought not to be any further suffering at the hands of the said incumbent.

20. We hope that the Court is not required to consider in some proceedings, the audit of all the duties discharged by the said incumbent and the litigation generated by his actions, in the event, the Court is confronted with orders of similar nature passed by Mr. Ganpat More if the same are contrary to law, arbitrary, high-handed and/or issued on extraneous considerations. All these observations shall be taken into consideration by the Secretary while granting any posting to the incumbent in future.

21. We direct the State Government to immediately appoint a competent officer to discharge the duties of the post of Deputy Director of Education, Pune Region, Pune, in place of Mr. Ganpat More.

22. With the aforesaid observations, the petition stands disposed of. No costs.

(Dr. NEELA GOKHALE, J.)

(G. S. KULKARNI, J.)