

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5290 OF 2025

Bhausahab Shaankarrao Jondhale ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

Mr. Vinayak Kumbhar a/w Rajendra Khaire i/b Ashwini N. Bandiwadekar for
Petitioner.

Mr. Aditya R. Deolekar, AGP for Respondent-State.

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

DATE: 31st AUGUST 2026

P.C.

1. Rule. Rule is made returnable forthwith. With the consent of all the parties, the matter is taken up for final hearing.
2. By this petition, the Petitioner seeks a declaration that he is entitled to be governed under the old pension scheme, i.e., under the provisions of the Maharashtra Civil Services (Pension) Rules, 1982; the MCS (Commutation of Pension) Rules, 1984; and the provisions of the Maharashtra General Provident Fund Scheme. The Petitioner also seeks a direction to the Respondents to allot a General Provident Fund Account Number to the Petitioner and thereafter, deduct the monthly contribution from the Petitioner's salary and deposit the same in the said account.

3. The Petitioner was appointed as a part-time Shikshan Sevak (Economics) on a 100% sanctioned aided post in the Respondent No.4 Junior College on 1st July 2002. Respondent No. 2, Deputy Director of Education of Respondent No. 1, State, granted approval for the appointment of the Petitioner with effect from 1st July 2002. The Petitioner continued to serve in the part-time aided post till 2007, and Respondent No. 2 granted annual approvals for the same.

4. By order dated 29 May 2008, Respondent No. 2 forwarded a proposal to the Director of Education recommending sanction of an additional full-time post for Economics (combined with EVS workload). The State Government issued a Government Resolution dated 17 September 2010, sanctioning the full-time post.

5. The Petitioner's part-time post was accordingly upgraded to a full-time post. By order dated 23 December 2011, Respondent No. 2 granted approval to the Petitioner as a full-time teacher with effect from 1 July 2010, noting that the Petitioner had served as Shikshan Sevak from 1 July 2007 to 30 June 2010, and granting approval in the pay scale of Rs. 9,300–34,800. The Petitioner continues to serve as a full-time teacher in Respondent No. 4 College.

6. On 31 October 2005, Respondent No. 1 issued a Government Notification introducing the Defined Contributory Pension Scheme (DCPS), applicable only to employees recruited in aided institutions on or after 1 November 2005. The Petitioner contends that, as he had been in service (as a part-time, 100%-grant-in-aid employee) from 1 July 2002 - prior to 1 November 2005 - the DCPS does not apply to him, and that he is instead governed by the old Pension Scheme and the Maharashtra Provident Fund Scheme.

7. On approaching Respondent Nos. 3 and 4 to open a Provident Fund account and extend benefits under the old pension scheme, the Petitioner was informed that, as he was a part-time employee when the new scheme commenced, i.e., with effect from 1 November 2005, and became full-time only in 2007, he would be governed by the new scheme.

8. The Petitioner submitted a written representation dated 29 January 2025 to Respondent No. 4, received on 1 February 2025, which was orally rejected - the Respondent informing him that his request for old pension scheme benefits could not be granted. Aggrieved by this refusal, the Petitioner has filed the present petition for the reliefs as prayed.

9. Heard Mr Vinayak Kumbhar, learned counsel appearing for the Petitioner and Mr. Aditya R. Deolekar, learned AGP representing the Respondent-State. With their assistance, we have also perused the papers of the petition.

10. The legal issue involved in the present matter has already been settled by a Full Bench of this Court in the matter of **Deshmukh Dilipkumar Bhagwan & Ors. V. State of Maharashtra Through Chief Secretary, General Administration Department & Ors¹**. A Division Bench of this Court had referred the issue as to whether employees who are appointed prior to 1st November 2005 in the aided recognized, primary and secondary and higher secondary schools as well as colleges receiving less than 100% grant in aid as on 1st November 2005 are entitled to the benefit of old pension scheme under the pension rules and commutation of Pension Rules or whether they will be governed by the New Pension Scheme

¹ 2019 (3) Mh.LJ (FB) 903

under the GR of 2005 to a larger Bench. The larger Bench of this Court, in its decision dated 30th April 2019, answered the issues in paragraph No.37 of the Judgment, which read as under:

“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.”

11. Thus, in a series of decisions following the larger Bench reference, it has been the consistent view of this Court that the services of an employee of an educational institution are to be counted from the first date of appointment irrespective of whether it is on a part-time or a full-time post. Further, if such appointment is prior to 1st November 2005 then the Old Pension Scheme shall apply to the employee. This requirement is further made clear from the GR dated 31st October 2005 of which, clause 4 provides that the employees who are recruited on or after 1st November 2005 in the services of a recognised and aided education institutions, the New Pension Scheme shall apply.

12. Considering the aforesaid discussions, we are of the view that since the Petitioner is appointed prior to 1st November 2005 and occupied a part-time fully aided post receiving 100% grant-in-aid from the State Government, the Old Pension Scheme shall apply to the Petitioner. Hence, we pass the following order:

ORDER

- (a) The Respondent No. 2-Deputy Director of Education shall apply the pension scheme to the Petitioner No. 1 prevailing prior to 1st November, 2005 (old pension scheme) in accordance with the provisions of the Maharashtra Civil Services (Pension) Rules, 1982 and the Petitioner No. 1 is eligible to be granted all consequential service benefits under the old pension scheme.
- (b) The Respondent No. 2-Deputy Director of Education shall allot the Provident Fund Account to the Petitioner No. 1 and thereafter permit the Petitioner No. 2 to deduct the amount of monthly compensation from the monthly salary of Petitioner No. 1 and deposit the same in the said Provident Fund Account, which shall be done within a period of six weeks from the date of this order.
- (c) Rule made absolute in the above terms.
- (d) Writ Petition is disposed of accordingly.
- (e) There shall be no order as to costs.

(DR. NEELA GOKHALE, J)

(G. S. KULKARNI, J.)

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signed by
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PATHRIKAR
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