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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1621 OF 2023

Rajendra Baban Ghone

... Petitioner

Vs

1. The State of Maharashtra, through the Secretary,
School Education Dept.
2. The Deputy Director of Education, Pune Region
3. The Education Officer (Secondary), Zilla Parishad, Pune
4. Subhash Vidyamandal, Pimpalwandi, Tal. Junnar
5. Subhash Vidyamandir Secondary and Higher
Secondary, Pimpalwadi, Tal, Junnar
6. Dr. Sandip Vitthal Rohakale, R/o. Pimpalwandi

... Respondents

Mr. Narendra V. Bandiwadkar, Senior Advocate a/w. Mr. Vinayak R. Kumbhar,
Rajendra S. Khaire i/b. Ashwini N. Bandiwadkar for the petitioner.

Ms. P.B. Chavan, AGP for the State.

Mr. Sarang S. Aradhye a/w. Gauri Velarikar and Sajiri Shah for respondent no. 4.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.
DATE: 14 OCTOBER 2026

Oral Judgment (Per G.S. Kulkarni, J.)

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

2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:

“a) Rule Nisi be issued and records and proceedings be called for.

b) By a suitable writ, order or direction, this Hon’ble Court may be pleased to quash and set aside the impugned order dated 27.9.2022 issued by respondent no. 3, and accordingly respondent no. 3 may be directed to sanction the pension proposal of the petitioner having retired as Head Master of respondent no. 5-School, and to pay all the retirement benefits to the petitioner w.e.f. 1.7.2021 onwards, with all arrears, including the monthly retirement pension, Gratuity and Provident Fund.

c) By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the respondent no. 3 to pay to the petitioner the retirement benefits alongwith the interest @12% p.a. from 1.7.2021 till the date on which the petitioner would be paid all the retirement benefits in full."

3. The facts lie in a narrow compass: The petitioner was appointed as Assistant Teacher against a sanctioned post on 31 March, 1993, with effect from 1 April 1993. The said appointment was approved by respondent no. 3 on 19 July, 1993. However, the approval incorrectly recorded the appointment being on an unaided basis, although subsequent events clearly indicate that the petitioner's salary, at all material times was paid from the grant-in-aid as received by the school. It is, therefore, the petitioner's case that the appointment was, in fact, on an aided post.

4. Thereafter, on 18 September, 1993 and 18 August, 1995, Staff Schedules / (Sanch Manyata) orders were issued by the Education Officer. According to the petitioner, the sanctioned teaching posts under the said orders were on an aided basis, and no post was sanctioned on an unaided basis, as erroneously recorded in respect of the post held by the petitioner. On 1 April, 2019, the petitioner was promoted as Headmaster of respondent no. 5-School after the senior teachers declined the promotion. Accordingly, he joined the post of Headmaster on the same day. On 12 April, 2019, the Management submitted a proposal seeking approval for the petitioner's promotion as Headmaster. A further proposal was submitted by the Management on 23 July, 2019, rectifying the deficiencies pointed out. On 26 July, 2019, respondent no. 3 granted approval to the petitioner's promotion as Headmaster with effect from 1 April, 2019, in the applicable pay scale.

5. It is the petitioner's case that, on 23 February, 2021, respondent no. 6 lodged a complaint alleging that the petitioner's initial appointment had been approved on an unaided basis, despite the fact that his salary was paid out of grant-in-aid, as also that he was subsequently promoted as Headmaster on a fully aided post.

6. On 30 June, 2021, the petitioner retired on attaining the age of superannuation. Respondent no. 4-Management accordingly submitted the petitioner's pension proposal to respondent no. 3. The petitioner contends that, despite his retirement, his regular pension and other retirement benefits are not sanctioned. He made various representations and pursued correspondence in that regard.

7. On 15 December, 2021, respondent no. 2 directed respondent no. 3 to submit proposal for sanction of the provisional pension. On 16 December, 2021, respondent no. 3 informed the petitioner on the provisional pension being granted and further action concerning regular pension. The petitioner was paid provisional pension for only six months, i.e., from 1 July, 2021 to 31 December, 2021. Thereafter, the pension for the subsequent period and other retiral benefits remained unpaid. Thereafter, respondent no. 2 held a hearing on the petitioner's grievance on 8 February, 2022. On 5 March, 2022, respondent no. 2 passed an order directing respondent no. 3 to examine the issue of approval of the petitioner's appointment and take action in accordance with the applicable rules regarding the pension proposal submitted by respondent no. 4-Management. As no action was taken, the petitioner, on 14 March, 2022, made a representation to

the Commissioner (Education), Maharashtra State, Pune.

8. As the issue, despite the aforesaid representations and correspondence, remained unresolved, the petitioner was constrained to approach this Court by filing Writ Petition No. 6344 of 2022. The said Writ Petition was disposed of by an order dated 20 August, 2022 passed by a Division Bench of this Court, whereby directions were issued to the respondents to process the pension proposal within the stipulated period. Pursuant to the order passed by this Court, the petitioner forwarded copies of the said order by letters dated 25 August, 2022 and 13 September, 2022.

9. On the aforesaid backdrop, respondent no. 3 passed the impugned order dated 27 September, 2022, rejecting/returning the pension proposal on the ground that the individual approval of the petitioner's appointment against an aided post had not been annexed to the proposal. It is on such premise that the present petition has been filed.

10. Mr. Bandiwadkar, learned senior counsel for the petitioner, submitted that the petitioner retired on 30 June, 2021 and had, at all material times, worked against an aided post. He further submitted that the petitioner's salary had been disbursed from the grant-in-aid received by the institution from the very inception of his service. In this context, our attention is drawn to the averments made in the petition, which reads thus:

"8. The petitioner states that after he was appointed and granted the approval, the Head Master of respondent no. 5 School submitted the salary bills of all the employees including the petitioner, to respondent no. 3 right from the date of the appointment of the petitioner. All such salary bills came to be approved and sanctioned

by respondent no. 3 and he also released the grant-in-aid for payment of amounts mentioned in the said salary bills. Accordingly, the petitioner also received the salary. That by way of illustration, the petitioner is annexing herewith as Exhibit-G the salary bill for the month of March, 2019, which also includes the Chart giving the details of the employees who are paid the salary. The petitioner is at Sr. No. 6 in the list of employees. Accordingly, the petitioner received salary in the post of Assistant Teacher right from the date of his initial appointment till he came to be promoted to the post of Head Master of the School in the year 2019.”

11. Mr. Bandiwadekar submits that this is a clear case of inadvertence on the part of the authority in not issuing formal sanction for the petitioner’s appointment as an Assistant Teacher against an aided post, hence, such inadvertence on the part of the authority ought not to prejudice the petitioner, particularly when the issue concerns the disbursement of pension. It is, therefore, submitted that, as the petitioner was working against an aided post at all material times, the petitioner would be entitled to pension on the basis of the proposal submitted by the Management.

12. Reply affidavit has been filed on behalf of respondent no. 4 by Mr. Pandurang Krushnaji Ghule, Secretary, wherein the Management has categorical stated that the petitioner was, in fact, appointed against a sanctioned aided post and that the approval granted to the petitioner’s appointment by respondent no. 3, vide order dated 19 July, 1993, was erroneously shown as being on an unaided basis. The relevant extract of the affidavit is required to be noted, which reads thus:

“4. I say that the petitioner, Rajendra Baban Ghone was appointed in the month of July, 1985 in the said school on the post of Laboratory Assistant in the said school run by the respondent no. 4. I crave leave to refer to and to rely upon a copy of the appointment order of the petitioner in the month of July, 1985 as and when required.

5. As per the Educational qualification of the petitioner, in the

month of June 1993, the petitioner was appointed as an Assistant Teacher in the said school. Hereto annexed and marked as Exhibit-"R-1" is a copy of the appointment order.

6. Thereafter, various responsibilities were entrusted to the petitioner. Considering the seniority of the petitioner, the petitioner was appointed on the vacant post of Head Master in the month of April, 2019. Hereto annexed and marked as Exhibit-"R-2" is a copy of the appointment order issued in favour of the petitioner in the month of April 2019.

7. I say that the Sevak Sanch of the said school for the year 1993-1994 was approved on 18.09.1993. As per the said Sevak Sanch, the total number of teachers were 44.5. Out of which 33 teachers were towards grantable divisions and Non-teaching staff being 11.5 were towards grantable divisions. I say and submit that as far as the present petitioner is concerned, the salary is paid to the petitioner from the grants received from the State Government. Hereto annexed and marked as Exhibit "R-3" is a copy of the "Sevak Sanch" for the year 1993 which was duly approved by the office of the Education Officer.

8. I say that though the approval to the petitioner's appointment as Assistant Teacher was granted by then Education officer (Secondary) Zilla Parishad Pune from 07.06.1993 in the pay scale of Rs.1400-2600, however, the said approval was shown on un-aided basis. A copy of said approval is annexed at Exhibit-E to the present Writ Petition.

9. As stated earlier, by order dated 18.09.1993 the respondent no. 3, the Education Officer had sanctioned the Sevak Sanch of Teaching/non-teaching employees for Respondent no. 5 school in respect of Academic Year 1993-1994 and thereafter by order dated 18.08.1995 for Academic Year 1995-96. The copies of orders dated 18.09.1993 and 18.08.1005 are annexed to the present Writ Petition at Exhibit-F. Therefore, it is important to note that under the above orders, the posts of teaching and non-teaching cadres and all these posts are sanctioned for aided divisions. As far as the column regarding sanction of posts for un-aided divisions are concerned, the same is left blank in the both the orders, meaning thereby that not a single division was sanctioned in respondent no. 5 school on un-aided basis and as such there was no question of sanction of any teaching and non-teaching post.

10. I further submit that the post on which the petitioner was appointed was in fact sanctioned posts on aided basis and the approval granted to the petitioner's appointment under order dated 19.07.1993 issued by respondent no. 3 was mistakenly on un-aided basis. As stated earlier, the petitioner was promoted on the post of Head Master and entire salary of the petitioner was paid from grants received from the State Government. Since, inception, the Salary of the petitioner was paid through the grants received by the State Government. If the appointment of the petitioner was on un-aided

post/Division, the salary of the petitioner would not have been paid through the Government grant. This fact clearly shows that the appointment of the petitioner since beginning was on aided Division.

11. I say that on account of superannuation, the petitioner was retired from the service on 30.06.2021. Thereafter, respondent no. 4 had submitted the pension proposal of the petitioner to respondent no. 3. A copy of the said pension proposal dated 30.06.2021 is annexed by the petitioner at Exhibit-R of the present Writ Petition.”

13. Reply affidavit filed on behalf of respondent no. 2 by Ms. Sunanda Wakhare, Education Officer, Secondary Education, Zilla Parishad, Pune has been placed on record in support of the impugned decision. However, the specific case of the petitioner, as set out in paragraph 8, is also confirmed by the Management that the petitioner was paid salary from the grant-in-aid throughout has not been disputed in the reply affidavit. The affidavit merely reiterates the reasoning underlying the impugned decision mechanically.

14. Having heard learned counsel for the parties and having perused the record, we find ourselves in agreement with the petitioner’s contention. It appears that, at all material times, the school was an aided school and the petitioner’s appointment as Assistant Teacher was also against an aided post. The proposal was submitted and approval was granted, however, inadvertently, the approval was granted against an unaided post, when the record did not support the existence of any such unaided post at the relevant time. The fact that the petitioner was paid salary from the grant-in-aid throughout his service has not been disputed by any of the respondents. On the contrary, the Management has supported the petitioner’s case that he was working against an aided post throughout.

15. In view of the above, the stand of the respondents in denying pension to the petitioner merely on the basis of such mistake cannot be accepted. Such denial would violate the petitioner's right to receive pension, having worked against an aided post from the time of his appointment as Assistant Teacher and thereafter as Headmaster. In these circumstances, we are inclined to allow the petition in terms of prayer clauses (b) and (c).

16. The Management shall resubmit the proposal within one week from the date a copy of this order is made available and forward the same to respondent no. 2 along with a copy of this order. Respondent no. 2 shall take necessary steps to disburse pension to the petitioner in terms of the observations and directions issued herein, without being influenced in any manner by the earlier decision.

17. The arrears of pension payable to the petitioner shall be calculated by respondent No.2 within a period of six weeks from today and disbursed to the petitioner along with interest at the rate of 8% p.a. If any terminal dues have been withheld, the same shall also be released in favour of the petitioner with similar interest to be paid on such amounts.

18. Rule is made absolute in the aforesaid terms. No costs.

(DR. NEELA GOKHALE, J.)

(G. S. KULKARNI, J.)