

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5534 OF 2006

Nandkumar s/o. Govindrao Vaidya .. Petitioner
Age. 62 years, Occ. Pensioner,
R/o. Plot No.154, House No. 181,
Ramkrishna Nagar, Basmath Road,
Parbhani, Tq. & Dist. Parbhani.

Versus

1. The Union of India .. Respondents
Ministry of Finance,
New Delhi – 110 001.
2. The Director, National Savings
Ministry of Finance,
Department of Economic Affairs,
1st Floor, 168-A, North Block,
New Delhi.
3. The National Savings Commissioner,
Government of India,
Ministry of Finance, 4th Floor,
C.G.O. Complex, A Block,
Seminary Hills, Nagpur.
4. The Regional Director,
National Savings, Mumbai Region,
East & West Insurance Building,
55, Mumbai Samachar Marg, Fort,
Mumbai – 400 023.

5. The Senior Accounts Officer,
Pay and Accounts Office
(Government of India)
National Savings Organization,
Ministry of Finance (DEA)
II Floor, N.S. Building,
Civil Lines, Nagpur.
6. Marathwada Krishi Vidyapeeth,
Parbhani,
Through its Registrar.
7. The State of Maharashtra,
Through the Principal Secretary,
Agriculture Animal Husbandry,
Dairy Development and Fisheries
Department, Mantralaya,
Mumbai - 400 032.

Mr. S.V.Chandole with Mr. S.S. Chillarge, Advocate for the petitioner.

Mr. Bhushan Kulkarni, Advocate for respondent Nos.1 to 5.

Mr. V.G. Sakolkar, Advocate for respondent No.6.

Mr. M.S. Patni, AGP for respondent/State.

**CORAM : A.V. NIRGUDE &
A.M. BADAR,JJ.**

DATED : 07.07.2015

ORAL JUDGMENT [PER : A.V. NIRGUDE,J.] :-

1. The petitioner has filed this petition for a specific direction to be given to the State of

Maharashtra - respondent No.7, that they should count his service in Central Government organization between 1965 to 1974 for the purpose of his pension. The petitioner admittedly retired from the Maharashtra Krishi Vidyapeeth, Parbhani, where he worked as a Section Officer from 1974 to 2002. He, thereby, completed about 28 years. Krishi Vidyapeeth is an autonomous body fully aided by the State of Maharashtra. The employees of Maharashtra Krishi Vidyapeeth are governed by the Maharashtra Civil Services Rules. The petitioner admittedly gets pension from the State of Maharashtra. When he retired in 2002, the State of Maharashtra counted his qualifying service from 1974 to 2002. They refused to count his earlier service between 1964 to 1974, as qualifying service. This gave rise to this petition.

2. The question, therefore, is whether the petitioner's service as a Lower Divisional Clerk between 1965 to 1974 with National Savings Organization, which is

an autonomous body of the Central Government, is qualifying service for the purpose of pension paid according to the Maharashtra Civil Services (Pension) Rules. The answer to this question is found in certain Government Resolutions issued by the Central Government as well as the Maharashtra Government. In 1984, the Central Government decided to give retirement benefits to the employees who moved from the Central Government Department to the autonomous body of Central Government where the service is pensionable. On certain conditions laid down in this Government Resolution, the Central Government declared that the employees getting absorbed from the Central Government, autonomous body of Central Government and vice versa, would get pension by counting service in both the places. The Central Government, thereafter, applied same rules vide their Government Resolution dated 13.07.1992 for counting service even on reciprocal basis in respect of Central Government employees absorbed in autonomous bodies, employees of

Central autonomous body absorbed in State Government and State autonomous bodies and vice versa. On 19.07.1993 the State of Maharashtra by issuing Government Resolution accepted the proposal referred to above contained in Government Resolution dated 13.07.1992 and decided to give similar benefits to the Central Government employees, who are absorbed in the State Government and State autonomous bodies and vice versa.

3. The case of the petitioner would fall within the parameters of last mentioned Government Resolution of the State of Maharashtra. The petitioner admittedly resigned from respondent No.4 organization with proper permission for joining the post of Section Officer in the autonomous body of the State of Maharashtra. Despite this clear position, it is surprising that the State of Maharashtra did not count the previous service of the petitioner as qualifying service. Instead, they asked the petitioner to get required funds (?) from the Central Government

vide letter dated 22.09.2003. This letter is written by the Desk Officer. It is not clear whether the opinion expressed in the letter is the opinion of the State of Maharashtra. Surprisingly, though this petition is seeking relief mainly against the State of Maharashtra, they have not filed any reply clarifying their position. They ought to have examined the case in the light of above referred Government Resolutions and such other rules that were applicable to the case and ought to have filed reply. This would have been helpful to the Court. They could have supported the stand taken by their Desk Officer and the letter dated 22.09.2003.

4. Learned AGP was requested to argue the case on merit, but she said that she would not argue unless she received instructions from her client. Had her client been keen to give instructions, they would have filed a reply long back. We find that the State of Maharashtra has made learned AGP's position awkward. We assume that

the State has left the case to the discretion of this Court.

5. The petition succeeds. The writ petition is allowed. There shall be rule in terms of prayer clause (B). Rule made absolute accordingly. No costs.

[A.M. BADAR,J.]

[A.V. NIRGUDE,J.]