

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

**WRIT PETITION NO.6582 OF 2014**

Nandini Ashok Patil,  
Age: 41 Years, Occ: Service,  
R/o. Plot No.40, Bhavarlal Nagar,  
Bhadgaon Road, Pachora,  
Tq. Pachora, Dist. Jalgaon

**PETITIONER**

**VERSUS**

1] The State of Maharashtra,  
through Principal Secretary,  
General Administration Department,  
Mantralaya, Mumbai-32.

2] Education Officer [Secondary]  
Zilla Parishad, Jalgaon

3] Superintendent,  
Pay & Provident Fund Unit,  
Education Department,  
Zilla Parishad, Jalgaon

[Copies of Respondent No.1 to 3  
be served in the office of Govt.  
Pleader, Bombay High Court, Bench  
at Aurangabad]

4] Head Master,  
Dr. Ram Manohar Lohiya  
Secondary & Higher Secondary  
School, Bambrud [Raniche],  
Tq. Pachora, Dist. Jalgaon.

**RESPONDENTS**

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Mr. Mahesh S. Deshmukh, Advocate for the Petitioners  
Mr. A.V.Deshmukh, AGP for the Respondent – State  
Respondent Nos.3 and 4 served.

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**CORAM: S.S.SHINDE &  
A.M.BADAR, JJ.**

Reserved on : 23.09.2015  
Pronounced on: 01.10.2015

**JUDGMENT:** [Per S.S.Shinde, J.]:

1] This Petition is filed with following prayer:

(A) Issue appropriate Writ or order in the like nature thereby quash and set aside impugned order passed by Respondent No.3-Pay Unit [Annexure'J'] dt.28/5/2013 and accordingly direct Respondent No.2 & 3 to treat and continue petitioner as an employee under General Provident Fund (GPF) Scheme and extend all benefits under the said scheme within stipulated period.

2] The learned counsel appearing for the petitioner submits that, the impugned order passed by the respondent No.3 – Pay Unit, dated 28<sup>th</sup> May, 2013, denying continuation of General Provident Fund scheme [in short GPF scheme'] to the petitioner and directing respondent No.4 Head Master to submit proposal of the petitioner under 'Contributory Pension Scheme' is illegal. It is submitted that, the respondent Nos. 2 and 3 have ignored an important aspect that, by applying clause No.16 of Appendix-A of the Government Resolution dated 13<sup>th</sup>

October, 2000, new appointment of petitioner being 'Assistant Teacher' in respondent No.4 School is already approved, as such the petitioner is entitled to take benefits on the strength of her earlier services from the Year 1997 till 2000. The petitioner cannot be discriminated to deprive benefits under GPF Scheme, by treating her new appointment as new employee to deprive benefits under GPF Scheme by ignoring the fact that, the petitioner is already registered under GPF Scheme in the Year 1997 itself. The said registration under GPF scheme in the Year 1997, still holds field as the same is not withdrawn yet. It is submitted that, the petitioner had already been admitted under GPF Scheme, considering her status as an Assistant Teacher by the then Education Officer [Secondary], Zilla Parishad, Aurangabad and her registration under GPF Scheme, is still hold field and not withdrawn till this date.

3] On the other hand, the learned AGP appearing for the respondent State, relying upon the reasons assigned in the impugned communication, and also the affidavit-in-reply filed on behalf of the respondent Nos.1 to 3, submits that, the petitioner has resigned from the post of Assistant Teacher / Head Master on 28<sup>th</sup> February, 2000, and

thereafter, the petitioner was appointed afresh on 15<sup>th</sup> June, 2011. Therefore, there is break in service of approximately 11 years. The service of the petitioner is not continuous from the Year 1997 onwards, and therefore, the petitioner is not eligible for the reliefs claimed by her.

4] We have heard the learned counsel appearing for the petitioner and the learned AGP appearing for the Respondent – State. With their able assistance, perused the pleadings and the grounds taken in the Petition, annexure thereto, the impugned order under challenge and the affidavit-in-reply filed by the respondent Nos.1 to 3.

5] Upon careful perusal of the facts stated in the Petition, it appears that, the petitioner was initially appointed on 9<sup>th</sup> June, 1997 as an Assistant Teacher in Kanya Vidyalaya, Adul, District Aurangabad. It further appears that, her services were approved, and she was promoted and appointed to the post of Headmistress on 1<sup>st</sup> February, 1999, and her appointment was approved by the Education Officer. However, it appears that, the petitioner tendered her resignation on 1<sup>st</sup> December, 1999 from the post of Assistant Teacher as well as Head Mistress with effect from 1<sup>st</sup> March, 2000 and the said resignation was

accepted by the management with effect from 28<sup>th</sup> February, 2000. It further appears that, the petitioner was appointed as an Assistant Teacher on 15<sup>th</sup> June, 2011 by the Pachora Taluka Co-operative Education Society Limited, Pachora, District Jalgaon and the proposal of the petitioner was sent to the respondent for approval, and accordingly, approval is also granted to new appointment. It further appears that, the respondent No.4 Headmistress submitted proposal of the petitioner in the office of the respondent No.2 Education Officer and the respondent No.3 – Pay Unit, requesting therein to continue the petitioner under old GPF scheme by extending all benefits. However, the said proposal was rejected by the respondent No.3.

6] The petitioner was appointed as an Assistant Teacher on 9<sup>th</sup> June, 1997, and thereafter, her services were approved, the petitioner was admitted under General Provident Fund [GPS Scheme] considering her date of appointment as 11.06.1997 by awarding registration No. AWB 7182. It is admitted position that, the petitioner resigned from the post of Assistant Teacher as well as the Headmistress, and her resignation was accepted by the concerned Management on 28<sup>th</sup> February, 2000.

7] Upon tendering resignation and from the date of acceptance of the resignation, her services as an Assistant Teacher / Headmistress came to an end and discontinued, and it is only on 15<sup>th</sup> June, 2011, she was appointed afresh as Assistant Teacher. It is only because of the petitioner's initial appointment as Assistant Teacher, on 09.06.1997, she was registered under GPF Scheme. But, on her resignation, her services came to an end, and therefore, impliedly her admission in the GPF Scheme, which was by virtue of her appointment as Assistant Teacher came to an end, and therefore, the respondent No.3 has rightly observed in the impugned communication that, the request of the petitioner to continue her in earlier GPF number / the old GPF number, cannot be given / continued, since there is no record to show that the petitioner has continuously served. Admittedly, there is break in the service from 28<sup>th</sup> February, 2000 till 14.06.2011. In fact, the earlier services rendered by the petitioner till 28<sup>th</sup> February, 2000 were in Kanya Vidyalaya Adul, and the new appointment as Assistant Teacher, on 15.06.2011 is in the Pachora Taluka Co-operative Education Society Limited, Pachora.

8] In that view of the matter, the respondents have rightly held that, the request of the petitioner for continuation of allotment of the old GPF number cannot be considered. We do not see any reasons to interfere in the impugned order, hence, Petition stands rejected.

**[A.M.BADAR]**  
**JUDGE**

**[S.S.SHINDE]**  
**JUDGE**

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