

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

WRIT PETITION NO. 1917 OF 2005

Pandurang s/o Rukhamji Koturwar ... **Petitioner**
Aged 76 years, Occu: Pensioner,
R/o c/o Smt. Sudha Prakash
Darbastwar, Plot No.19, "Deep"
Sangram Nagar, Near Renukamata
Mandir, Beed Bye-pass,
Aurangabad.

VERSUS

1. The State of Maharashtra
Through its Secretary,
School Education Department
Mantralaya, Mumbai 400 32
2. The Director of Education,
M. S. Pune.
3. The Deputy Director of Education, ...
Aurngabad.
4. The Education Officer(Primary)
Zilla Parishad, Nanded.
5. Nutan Education Society,
Through tis Secretary,
Shri Shriniwas @ Bapusaheb
gorthekar- Deshmukh, Umri
Dist. Nanded.
6. The State of Andhra Pradesh
Through its Principal Secretary,
Department of General
Administration, Secretariat,
Hyderabad.

Mr. U. R. Awate, i/by Talekar and Associates, Advocate
for the petitioner

Mrs.S. S. Raut, AGP for the Respondents 1 to 3 -State ,
Mr. s. S. Choudhari, Advocate for respondent No.5.

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 2nd December, 2016

JUDGMENT :

1. Mr. Awate, the learned counsel for the petitioner states that the petitioner was appointed initially on 11.11.1952 in Nutan Vidyalaya High School, Umri, run by the Aryan Education Society, Hyderabad. Under order dated 30.06.1956, the petitioner came to be transferred to Keshav Memorial High School, Narayanguda, Hyderabad. Thereafter the petitioner was further transferred from the said school to Shamlal Memorial High School, Udgir under order dated 01.07.1957 and the petitioner stood retired on attaining the age of superannuation on 01.11.1986. Pension papers of the petitioner were forwarded in 1989. The pension is sanctioned in favour of the petitioner. The learned counsel submits that while considering the claim of pension, the services rendered by the petitioner from the year 1952 till June, 1957 are not considered. According to the learned counsel, in view of the provisions of the State Reorganization Act, more particularly Sub Section 7 of Section 115 of the said Act, services rendered by the petitioner in

the erstwhile Hyderabad State shall have to be counted for the purpose of pension. According to the learned counsel, conditions of service cannot be altered upon the State Reorganization. Conditions of service would remain the same. The learned counsel relies on the judgment of the Apex Court in the case of M. D. Shukla Vs. State of Gujrat, reported in 1970 (1) SCC 419 and the judgment of the Division Bench of this Court in case of Zilo Zo and others Vs. State of Goa and others, reported in 2012 (2) Bom.C.R. 450 so also the judgment of Division Bench of this Court in Writ Petition No.8226/2006 dated 9th June, 2014.

2. Mr. Choudhari, the learned counsel for the respondent No.5 Institution states that the factum of the petitioner having rendered services from 1952 is not disputed, however, the claim of the petitioner is belated. In 1989, pension was sanctioned and the petition is filed in the year 2005.

3. Mr. Raut, the learned AGP submits that the petitioner has rendered services with the respondent Institution in this State since 1957. As such, the services rendered in other State could not have been considered for the purpose of pension. According to

the learned AGP, even the Government resolution dated 14.02.1986 would not come to the aid of the petitioner. Services rendered by the petitioner from 11.11.1952 to 31.08.1957 in the erstwhile State of Hyderabad is rightly not considered. Further, there is enormous delay in filing the writ petition.

4. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. The details of the conditions of services are not before this Court. It is not disputed that the petitioner was appointed on 11.11.1952 as an Assistant Teacher at Umri in the erstwhile State of Hyderabad. Thereafter on 30th June, 1956 he was transferred to Keshav Memorial High School, Narayanguda, Hyderabad and again to Shamlal Memorial High School, Udgir on 01.07.1957. What were the conditions of service when the petitioner was serving with erstwhile State of Hyderabad are not before this Court. Whether the said service in the State of Hyderabad was pensionable service or not is also not before this Court. In absence of any such details, it would not be possible to conclude in favour of the petitioner. It is true that the conditions of service cannot be altered upon

Reorganization of the State and that the area where the petitioner was working i.e. Umri was subsequently formed part of the State of Maharashtra. However, in absence of any conditions of service governing the petitioner during his service period in the erstwhile State of Hyderabad, being on record, it would not be possible for us to decide in favour of the petitioner. In light of that, the writ petition is dismissed. Rule discharged. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC