

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3588/2016

(Vilas s/o Janardhan Parihar @ Parhad & 48 others vs. State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri S.B.Solanke, Advocate for the petitioners

Shri Vishal Gangane, Assistant Government Pleader for Respondents

CORAM : SMT. VASANTI A.NAIK &
MRS.SWAPNA JOSHI, JJ.

DATED : 28th June, 2016

Heard.

By this Writ Petition, the petitioners seeks a declaration that they are entitled to the benefits of the old pension scheme i.e. scheme under the Maharashtra Civil Services (Pension) Rules, 1982, as they are recruited prior to 1.12.2005.

Since the old pension scheme is applicable to the employees that were appointed before 1.11.2005, the petitioners claim the benefit under the old pension scheme i.e. scheme under the Maharashtra Civil Services (Pension) Rules, 1982. It is the case of the petitioners that though each of the petitioner was appointed after the cut off date, i.e, 1.11.2005, by issuance of separate appointment orders, they were all selected before 1.11.2005 and hence the old pension scheme

should be made applicable to them. The learned counsel for the petitioners has relied on the judgment of the Hon'ble Supreme Court the case of *Prafulla Kumar Swain vs. Prakash Chandra Misra and others*, reported in *1993 SCR (1) 241*, to substantiate his submission.

On hearing the learned counsel for the parties, we find that the relief sought by the petitioners cannot be granted. Though the petitioners may have been selected before the cut off date, none of the petitioners was appointed before the cut off date i.e. 1.11.2005. Each of the petitioners was appointed after 1.11.2005. Since the old Pension Scheme is applicable only to the appointments made before 1.11.2005, the petitioners would not be entitled to claim the benefits under the old Pension Scheme. Merely because the selection process was in progress before the cut off date and the petitioners may have been selected before that date, the petitioners would not be entitled to the old pension scheme. The judgment relied on by the counsel for the petitioners cannot be made applicable to the facts of this case. In the said judgment, it is held by the Hon'ble Supreme Court that the seniority of the employees should be reckoned from the date of their appointment and not from the date of their recruitment.

Since there is no merit in the Writ Petition,
the same is dismissed with no orders as to costs.

JUDGE

JUDGE

sahare