

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

WRIT PETITION NO. 2381 OF 2005

Smt.Laxmibai w/o. Genuji Ghagre,
aged 67 years, occu – Nil,
(through her General Power of Attorney
Chandrashekhar s/o. Genuji Gharge,
aged 35 years, occu - business,
r/o. Puntamba, Tq.Kopargaon,
(Now Rahata), District Ahmednagar).

...Petitioner

versus

1. The State of Maharashtra,
(through its Secretary, School
Education Department, Mantralaya,
Mumbai).
2. The Deputy Director of Education,
Pune.
3. The Zilla Parishad,
(through its Chief Executive Officer)
Ahmednagar.
4. The Education Officer (Primary),
Zilla Parishad, Ahmednagar.
5. The Bombay Conference of the Methodist
Church in Southern Asia (through its
Secretary Shri.N.L.Karkare), 22 Y.M.C.A. Road,

Methodist Centre, Bombay Central,
Bombay 8.

6. The Head Mistress,
Methodist Primary School,
Puntamba Taluka Rahata,
District Ahmednagar.

7. The Manager,
Methodist Mission,
Puntamba Taluka Rahata,
District Ahmednagar.

8. The Accountant General (A&E)-I,
Maharashtra-101,
Maharshi Karve Marg, Mumbai-400 020.

...Respondents

Mr. Kiran M. Nagarkar, Advocate for
Petitioner.

Mr. Shashibhushan P. Deshmukh, Assistant
Government Pleader for Respondents
No. 1, 2 and 8.

Mr. S. S. Wagh h/f Mr. S. T. Shelke Advocate
for Respondent Nos. 3 and 4.

Mr. T. V. Bedre Advocate h/f Mr. V. S. Bedre, Advocate
for respondents No. 5 to 7.

**CORAM : SUNIL P. DESHMUKH AND
SANGITRAO S. PATIL, JJ.**

DATED : 3rd OCTOBER, 2017

JUDGMENT (PER SUNIL P. DESHMUKH, J.) :

1. The petition has been moved for redetermination of pension and pensionary benefits of petitioner's husband payable to her by taking into account service rendered by him during 12-06-1957 to 31-12-1964, in school at Bidar in Karnataka State. According to the petitioner, her husband had been transferred from the school at Bidar on 12-06-1965 to Methodist Primary School at Puntamba, (Now Rahata), Dist. Ahmednagar.

2. Petitioner's husband retired as Headmaster on 31-05-1990. According to the petitioner, her husband had died without receipt of any pension and pensionary benefits. The petitioner had moved a writ petition bearing No.3711 of 2002 for pension and pensionary benefits due and payable to her husband and after him to her. The High Court had, under its order dated 08-01-2003, directed to consider the petitioner's case and take a decision thereon.

3. It appears, the case of the petitioner had been processed and pension and pensionary benefits had been granted. However, according to the petitioner, those are deficient, since the service rendered by her husband in Karnataka State has not been taken into account for computation of pension. Learned counsel for the petitioner

submits that if said period is computed for pension and pensionary benefits payable to the husband of the Petitioner, it would increase the amount of pension and pensionary benefits as would be due and payable to her husband and after him to her.

4. Learned counsel for the Petitioner further submits that there are several instances, wherein, on transfer of an incumbent from other State to Maharashtra, such period has been computed for the purpose of grant of pension and pensionary benefits. He purports to state that one Smt. P.C.Pandit has received such benefits. He, therefore, urges to consider the request and allow the benefit of the said period from 1957 to 1965 for the purposes of computation of pension and pensionary benefits being given to the petitioner.

5. Learned counsel for respondents No.3 and 4 – Zilla Parishad, Ahmednagar submits that as a matter of fact, after the order had been passed in Writ Petition No.3711 of 2002, a proposal had been forwarded with computation of the period from 1957 to 1965 in Form No.15. However, Accountant General, Mumbai had not taken the same into consideration since service rendered by employee in Karnataka State is not admissible in Maharashtra State for the purpose of grant of

pension. Further, Government of Maharashtra has also given instructions to the Director of Education and all other authorities that services rendered by employees outside the State are not qualifying services for pensionary benefits.

6. It is further submitted that dues, exclusive of service in Karnataka State, are paid to the petitioner including issuance of no dues certificate.

7. Learned counsel for respondent Nos. 5 to 7 as well submits that proposal had been forwarded for computing the period of service from 1957 to 1965, however, the proposal had been accepted excluding said period.

8. The learned counsel for respondents submitted that time to procure material in support of averments in writ petition had been sought and the petitioner has not been able to place on record anything in support of the argument.

9. Learned Assistant Government Pleader Mr.Deshmukh appearing on behalf of respondents No. 1, 2 and 8 submits that the matter of such computation has been taken into consideration by the Education Officer, Pay and Provident Fund Unit (Primary), Private Primary School, Ahmednagar, wherein, it was intimated that the case can be considered in revision on receipt of necessary clarification. Relying on the affidavit filed on

behalf of the Zilla Parishad, he submits that it appears that Maharashtra State does not consider and accept the services rendered by employees outside the State for the purpose of computation of pension in Maharashtra. He submits that the Government authorities accordingly have declined the proposal of pension and pensionary benefits payable computing service in Karnataka State. He submits that the pensionary benefits as are due and payable according to the rules and regulations, were calculated and pay orders were issued and amounts have been paid accordingly. He, as such, submits that writ petition does not carry any substance and deserves to be dismissed.

10. The petitioner has not been able to take beyond the realm of averment and submissions, the case of Smt. Pandit. According to the learned counsel for the petitioner, the averments made in the petition, have gone un-controverted in the affidavit filed by the respondents and as such his argument deserves to be accepted.

11. The petitioner was given time on quite a few occasions to secure material to support her contention in respect of computation of period of service rendered outside the State for the purpose of pension and pensionary benefits payable in Maharashtra State. Except giving name of Smt. P.C.Pandit, the

petitioner has not been able to support her claim with any material. Time sought to secure information, has not yielded any fruits.

12. No provision of law or service rules for considering the services rendered outside the State of Maharashtra for computation of pension and pensionary benefits in the Maharashtra State have been pointed out.

13. In the circumstances, it would not be proper to go by unsupported averments in the petition. We are left with no alternative, in the situation, but to decline the request made under the petition.

14. Writ petition, as such, is dismissed, accordingly. Rule stands discharged.

(SANGITRAO S. PATIL, J.)

(SUNIL. P. DESHMUKH,J)

mta/-