

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.251 OF 1998

1. S.G.Malay,
Age-61 years, Occu-Service,
R/o Ahmednagar,
Dist.Ahmednagar,
2. Ahmednagar Zilla Sahakari Sevak
Union, a registered society
bearing registration No.PN 308
having its office at Ahmednagar,
Through its General Secretary,
A.B.Inamdar,
Age-Major, Occu-Service,
R/o Ahmednagar, Dist.Ahmednagar -- PETITIONERS

VERSUS

1. The Union of India,
Through the Secretary,
Ministry of Labour,
having office at New Delhi,
2. The Provident Fund Commissioner
having office at
Bhavishya Nidhi Bhavan,
Bandra (East),
Mumbai - 400 070
3. The Regional Provident Fund Commissioner,
Having office at
Wani House, Opposite
Mangal Karyalaya,
New Mumbai - Agra Road,
Nasik,
4. Ahmednagar District Supervising
Co-operative Society Limited,
Ahmednagar having office at
3rd floow, cooperative Bank Annexe,

Station Road, Ahmednagar,
Through its Chief Executive Officer -- RESPONDENTS

Mr.S.D.Dhongade, Advocate for the petitioners. **(Absent)**
Mr.K.B.Choudhary, Advocate for respondent Nos. 2,3.
Mr.S.D.Pokharkar, Advocate for respondent No.4. **(Absent)**
Respondent No.1 served. **(Absent)**

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/02/2017

ORAL JUDGMENT :

1. Though this matter is on the final hearing board, none appears for the petitioner. Instead of dismissing the matter in default, I prefer to decide it on its merits.

2. I have heard the learned Advocate for respondent Nos. 2 and 3/ PF Department. None appears for respondent Nos. 1 and 4.

3. The petitioners are aggrieved by the order passed by the S.R.O. E.P.F. Nasik dated 29/05/1996 by which the petitioners are held ineligible since they are not eligible for the Employees Pension Scheme 1995 as they have not put in 10 years of eligible service. The petitioners further seek a declaration that the date of application and determination of the pensionable service under the E.P.S.1995 be reckoned as 01/10/1974 and not 01/10/1986. It is

further prayed that the E.P.S.1995 be made applicable with retrospective effect from 01/10/1975.

4. The E.P.S. 1971 was made applicable to the concerned area on 01/10/1974. Respondent No.4 / Establishment in which the petitioners were working, was covered under the E.P.F. and M.P. Act, 1952 w.e.f. 01/10/1974. The dues towards provident fund for an amount of about 1,20,80,000/- was recovered towards the employers' contribution under the Provident Fund and not under the Pension Scheme.

5. The pension scheme is in the form of an Insurance Scheme by which an eligible candidate receives pension and upon his demise, the legal heirs would be entitled for the pension. It is an exhaustive scheme and which becomes applicable when an employee starts contributing to the said Pension Scheme. The date of applicability of such a pension scheme is from the date from when the employee begins to contribute and gets enrolled in the scheme so as to be eligible for the benefits flowing thereunder.

6. There is no dispute that in this case respondent No.4 / Establishment sought coverage under the pension scheme from

01/10/1986 and as such the effect of the said coverage will not be with retrospective effect.

7. Considering the above, I do not find that the directions sought by the petitioner could be issued in this petition. Being devoid of merit, this petition is dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)