

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

WRIT PETITION NO. 3729 OF 2017

Narayan S/o Digambar Panchal

... Petitioner

VERSUS

The State of Maharashtra & Ors.

... Respondents

.....

Mr Suresh M. Kulkarni, Advocate for the petitioner
Mrs Vaishali N. Patil-Jadhav, AGP for respondent/State

.....

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 22ND JANUARY, 2018.

ORDER:

1. Mr Kulkarni, learned counsel for the petitioner submits that, the petitioner was appointed as a full time Librarian under appointment order dt. 10.08.1998. Earlier to that, in the year 1996, the petitioner was appointed as a Part-time Librarian. The requisite strength was available. According to the learned counsel, the Education Officer (Primary) wrongly granted approval to the petitioner as a Full-time Librarian w.e.f. 01.04.2006. The same ought to have been from 1998. The learned counsel submits that, the service rendered by the petitioner as Part-timer has to be calculated as half. The learned advocate relies on the judgment of the Division Bench of this Court in a case of Mukund v State of Maharashtra

2016(3) Mh.L.J. 280 and the judgment of another Division Bench at Nagpur in Writ Petition No. 5268 of 2015 with connected writ petitions decided under judgment dt. 29.09.2016 and submits that, Rule 57 of the MCS (Pension) Rules 1982 would also be relevant and the service rendered as a Part-time has to be calculated as half for the purpose of pensionary benefits.

2. Learned AGP relies on the judgment of the Division Bench at Aurangabad in the case of **Satish Ganpatrao Patil & Ors. v. The State of Maharashtra & Ors.** (Writ Petition No. 2311/2013) decided on 31.03.2015.

3. The petitioner has retired almost eight years back. The petitioner's services were approved as a Full-time Librarian w.e.f. 01.04.2006 under order dt. 28.11.2007. Earlier to that, the service of the petitioner is considered as Part-time.

4. The petitioner on 27.09.2013 has given representation to the Education Officer, in which, he has specifically admitted that he has worked as a Part-time Librarian from 15.07.1996 to 31.03.2006 and as a Full-time Librarian from 01.04.2006 to 30.06.2013. The said representation is at Exh. B (Page 18). It is the contention of the petitioner that, the services had been wrongly shown as Part-time

Librarian till 01.04.2006. The petitioner never made any grievance during his service and has also accepted the order of approval dt. 20.11.2007 approving the service of the petitioner as a Full-time Librarian from 01.04.2006. The petitioner was granted approval as a Full-time Librarian on the basis of the Govt. Resolution dt. 03.10.2006, wherein 924 posts were upgraded as Full-time Librarian.

5. In case of Mukund (supra), this Court was considering the services rendered as a Part-timer to be calculated as half where the said person was appointed as a Full Time Librarian in the year 1991 and not pursuant to G.R. dt. 03.08.2006. In case of Rohini (supra), no dates are appearing so as to know when the said petitioners were appointed as Full-time Librarian.

6. The petitioner undisputedly was appointed as a Full-time Librarian w.e.f. 01.04.2006 pursuant to the benefit given to the petitioner under Govt. Resolution dt. 03.08.2006. The petitioner admits the said fact. Even in the representation dt. 27.09.2013, he has specifically admitted that he has worked as a Part-time Librarian from 15.07.1996 to 31.03.2006 and as Full-time Librarian w.e.f. 01.04.2006. The Division Bench at Aurangabad in a case of Satish Ganpatrao Patil (supra) under order dt. 31.03.2015 has observed that, the person appointed pursuant to the Govt. Resolution dt.

03.08.2006 would not be entitled for the benefit of his service rendered as a Part-time Librarian and the appointment w.e.f. 01.04.2006 would be a fresh appointment. The persons having got the benefit of the scheme of the GR dt. 03.08.2006 would be bound by the terms of the Govt. Resolution and the said clause in the GR was upheld.

7. In light of the above, the claim of the petitioner cannot be granted. The writ petition is, accordingly, dismissed. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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