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

WRIT PETITION NO.544 OF 2017

1. Ganesh Chaganrao Landge,
Age: Major, Occ: Service,
R/o. Ambikanagar, Pimpalgavhan
Road, Beed, Tq. & Dist. Beed.
 2. Praful Kumar Prabhakar Deshmukh,
Age: Major, Occ: Service,
R/o. Krantinagar, Mahasangvi
Road, Patoda, Tq. Patoda,
Dist. Beed.
 3. Hanumant Dagdu Waghmare,
Age: Major, Occ: Service,
R/o. Panchaseelnshagar,
Old Palwan Road, Beed,
Tq. & Dist. Beed.
 4. Amol Rameshrao Patki,
Age: Major, Occ: Service,
R/o. Radhakrishnanagar,
Pangri Road, Beed,
Tq. & Dist. Beed.
- ..PETITIONERS

VERSUS

1. Union of India,
Through the Secretary
Ministry of Finance, Economic
Affairs Department.
2. The State of Maharashtra
Through the Secretary
Finance Department, Maharashtra.
3. Pension Fund Regulatory and
Development Authority,
B-14/A, chatrapati shivaji
Bhavan, Katwsaria Sarai,

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New Delhi-110016.

..RESPONDENTS

Mr Sayyed Tauseef Yaseen, Advocate for petitioners;
Mr S.B. Deshpande, Asstt. Solicitor General of
Ijhdia for respondent Nos. 1 and 3;
Mr S.Y. Mahajan, A.G.P. for respondent No.2

**CORAM : PRASANNA B. VARALE
AND
MANGESH S. PATIL, JJ.**

DATE : 19th NOVEMBER, 2018

ORAL ORDER :

Heard learned Counsel appearing for the
petitioners.

2. Learned Counsel appearing for the
petitioners submitted that the petitioners before
this Court are employees of Public Health
Department under Government of Maharashtra. It is
then submitted that the respondents more
particularly State introduced a new pension scheme
from 1st January, 2004 through notification dated
22nd December, 2003 for a new entrance to the
Central Government servant except Armed Forces.
Then there is reference to the features of the

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said scheme.

3. Learned Counsel appearing for the petitioner then invited our attention to the statement made in the petition to submit that the Committee was constituted namely Bajpai Committee with an object to provide parity of the benefits under the pension scheme.

4. The grievance of the petitioners is that discriminatory treatment is given to the said employees and this treatment is arbitrary and violative of Article 14 of the Constitution of India and accordingly, prayers are made in the petition.

5. The basic prayers are prayers B and C, which read thus :

"B. By issuing a Writ of Mandamus or any other Writ or order Be Pleased to Hold and declare that The present process under the National Pension Scheme restrict the

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deployment of funds of the government employees across the three public sector PFMs only is arbitrary, unreasonable violative of Article 14 of the constitution and contrary to the scheme of PFRDA act."

"C. By issuing a Writ of Mandamus or any other Writ or order or direction in the like nature to grant Parity in investment pattern to subscribers from central and sdtate Government as compare to their counterparts from private sector who are enjoying a choice in the selection of Pension Fund Manager (both public and private sector PF) as well as the choice to allocate fund amongst the three asset classes (Equity (E), Corporate Debt (C) and Government Securities (G) with only ceiling of 50% on equity."

6. On 20th January, 2017 notice was issued to the respondents. In response to the notice, reply is filed. Mr. Deshpande, learned Assistant Solicitor General of India, by inviting o9ur attention to the affidavit in reply filed on behalf of respondent No.3 Pravesh Kumar s/o late Nagendra Prasad, Deputy General Manager in office of Pension

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Fund Regulatory & Development Authority, New Delhi, submitted that firstly that 7th Pay Commission constituted for pay revision for Central Government Employees has recommended that choices be offered to subscribers in the Government Sector. Then it is submitted that the matter is already taken up by the Central Government for providing new choice as well as selection of pension funds to Government employees. Then the submission is made that the Central Government has already constituted a committee of Secretaries to look into matters related to NPS and extending of individual choices to Government Sectors is one of the agenda items.

(Emphasis supplied)

7. Mr. Deshpande, learned Assistant Solicitor General of India invited our attention to the affidavit in reply filed on behalf of respondent No.1 through Prabhu Dayal, Under Secretary. It may not be necessary to refer to other details of the affidavit in reply.

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8. Suffice it to state that a statement is made in the affidavit in reply that the matter of providing choice to the Central Government employees is under examination of the Government of India. He further submitted that as the issue is pending consideration, the petition is of premature nature and it is possible that on considering all the aspects of the matter, the Committee may arrive at a decision which may be favourable to the petitioners and at this stage, it cannot be assumed and presumed that a discriminatory treatment is provided to these petitioners.

9. We find considerable merit in the submission of Mr. Deshpande, learned Assistant Solicitor General of India. In view of the statement made in the affidavit in reply that the issue is pending before the Central Government, we are of the opinion that the petition itself can be disposed of with direction to the respondents-authorities and more particularly respondent No.1 to take a decision as expeditiously as possible and

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not later than twelve weeks from the date of this order, needless to state, on merits.

10. We further make it clear that if such decision is taken and the petitioners are aggrieved by the ultimate decision, the petitioners are at liberty to avail remedies under the law, if so advised.

11. The writ petition is accordingly disposed of.

(MANGESH S. PATIL)
JUDGE

(PRASANNA B. VARALE)
JUDGE

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