

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3984 OF 2017

Shri. Bhupal Bhau Bargale

..Petitioner

Versus

State of Maharashtra and others

..Respondents

Mr. S. A. Rajeshirke, Advocate for the Petitioner.

Mr. Vikas Mali, AGP for Respondent Nos.1 to 4.

CORAM : B. R. GAVAI &

A. M. BADAR, JJ.

DATE : 19th JANUARY, 2018

PC.

1] Rule. Rule made returnable forthwith. Heard by consent.

2] The Petitioner has approached this Court seeking a writ of mandamus directing Respondent Nos.5 and 6 to submit pension proposal of the Petitioner and for further directions to Respondent Nos.1 to 4 to sanction and grant the same by considering service of the Petitioner on the post of part time teacher alongwith service rendered by him as a full time teacher.

3] The proposal for grant of pensionary benefits to the Petitioner is rejected on the ground that the Petitioner has completed only 8 years and 10 months service on full time basis.

4] It is the contention of the Petitioner that he has put in 19 years and 5 days service as a part time teacher. The learned counsel for the Petitioner relies on the judgment of the Division Bench of this Court. Learned counsel for the Petitioner submits that various Division Benches of this Court have taken a view that even part time services rendered by a teacher are entitled to be considered for considering the pensionable period of service. It is further submitted that the Petition deserves to be allowed. A Division Bench of this Court in Writ Petition 13220 of 2016. in the case of Mone Rashmi Shriram Vs. State of Maharashtra decided on 4th May 2017, has held that in view of provisions of Rule 30 of MEPS Rules, the services rendered by an employee as a part time teacher are entitled to be considered while considering the pensionable service of the Petitioner.

5] Another Division Bench of this Court at Nagpur in a bunch of Petitions being Writ Petition No.5268 of 2015 decided on 29th September 2016 has also taken a similar view.

6] The learned AGP opposes the Petition on the ground that the judgment of the Division Bench in the case of *Jyoti Prakash Chougule* is sought to be reviewed by the State Government and the review is still pending. However, the learned counsel for the Petitioner informs us that

the said review has already been rejected.

7] In that view of the matter, we find that Petitioner deserves to be allowed. The order rejecting the proposal of the Petitioner for grant of pension is quashed and set aside. The Respondent Nos.5 and 6 are directed to submit a fresh proposal for grant of pensionary benefits of the Petitioner after considering the period during which he has served as part time alongwith a period during which he has served as full time. The Respondent Nos.1 to 4 are directed to consider the proposal submitted and sanction the same in accordance with the view taken by the Division Bench of this Court in the case of Jyoti Prakash Chougule Vs. State of Maharashtra (Writ Petition No.2354 of 2012 decided on 07.01.2014).

[A. M. BADAR, J.]

[B. R. GAVAI, J.]