

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

WRIT PETITION NO. 5068 OF 2018

Sulbha Shankar Kurne	... Petitioner
V/s.	
The State of Maharashtra	
through its Secretary & Ors.	... Respondents

WRIT PETITION NO. 5322 OF 2018

Pradnya Anil Erande	... Petitioner
V/s.	
The State of Maharashtra	
through its Secretary & Ors.	... Respondents

WRIT PETITION NO. 5323 OF 2018

Menaka Pandit Ashtekar	... Petitioner
V/s.	
The State of Maharashtra	
through its Secretary & Ors.	... Respondents

Mr. V.S. Talkute for the Petitioners in all the Petitions.
Mrs. Rupali M. Shinde, A.G.P. for Respondent Nos.1 and 2-State in all the Petitions.
Mr. Rajendra Anbhule for Respondent No.3 in all the Petitions.

**CORAM : R.M. SAVANT &
K.K. SONAWANE, JJ.**
DATE : 4th SEPTEMBER, 2018.

P.C. :

1 The above Writ Petitions have been filed seeking a direction that the Petitioners above named be granted pension.

2 Insofar as Writ Petition No.5068 of 2018 is concerned, the employee Shankar Kurne having expired, his wife i.e. the Petitioner in the said Petition, has sought the grant of family pension. There is no dispute about the fact that the Petitioners and the husband of the Petitioner in Writ Petition No.5068 of 2018 were in the employment of the University of Pune in various non-teaching posts till their date of retirement and as such had put in more than 20 years of service. Hence, there can be no dispute about the fact that all the Petitioners had the qualifying service so as to entitle them to the grant of pension.

3 On behalf of the Respondent, the grant of pension to the Petitioners is opposed on the ground that the Petitioners were over age at the time of their initial appointment and therefore, their appointment falls foul of the Government Resolution dated 28.01.1986 which fixed the upper age limit insofar as the non-teaching posts are concerned. Insofar as the issue as to whether the fact of the Petitioners being over age at the time of their initial

appointment would dis-entitle them to pension after putting in long years of service with the University is concerned, the same is no more res-integra and is covered by various judgments/orders passed by the Division Benches of this Court. The same can be gainfully summarized herein below :

- i) Order dated 10th January 2012 in Writ Petition No.6523 of 2011 in the matter of Madhukar Shankarrao Pawar & Ors. Vs. State of Maharashtra & Ors.
- ii) Order dated 17th December 2013 in Writ Petition No.6168 of 2012 in the matter of Dilip Krushna Tadakhe & Ors. Vs. State of Maharashtra & Ors.
- iii) Order dated 2nd May 2017 in Writ Petition No.8830 of 2015 in the matter of Ashok Haribhau Sawant Vs. State of Maharashtra & Ors.

4 Hence, the objection as regards the Petitioners being over age at the time of recruitment, has been rejected by the Division Benches of this Court, therefore, the said issue has been put to rest. The orders passed by the Division Benches in the above Writ Petitions are in respect of the employees who are similarly situated as Petitioners as can be seen from the proposal sent by the University to the Director of Higher Education wherein the names of all the Petitioners are appearing along with the Petitioner in Writ Petition No.8830 of 2015 i.e. Ashok Haribhau Sawant.

5 In that view of the matter, the above Writ Petitions are required to be allowed and are accordingly allowed in terms of prayer clause (a). Since the Petitioners have been wrongly denied the benefit of pension they would be entitled to the arrears of pension with interest @ 6% p.a. from the date of their retirement till payment. We direct that the payment to be made on or before 31.12.2018 failing which the rate of interest would increase to @ 10% p.a.

6 The Petitions are allowed to the aforesaid extent and to accordingly stand disposed of.

(K.K. SONAWANE, J.)

(R.M. SAVANT, J.)

Waishali
Sushil
Waghmare

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by Waishali
Sushil
Waghmare
Date: 2018.09.06
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