

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

WRIT PETITION NO.1946 OF 2014

Swapnaja w/o. Vidyasagar Dravid
@ Alka d/o. Purshottam Kalaskar,
Age : 58 years, Occ. retired,
r/o. Parimal, Saraswati Colony,
Near Canal, Shrirampur,
Dist. Ahmednagar

..Petitioner

Vs.

1. The State of Maharashtra,
Through its Principal Secretary,
School Education Department,
Maharashtra State,
Mantralaya, Mumbai – 32
2. The Director of Education,
Central Bldg., Pune
3. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar
4. Hind Seva Mandal, Ahmednagar,
Borkar Nagar, Sarda College Maidan,
Nagar Savedi Road, Ahmednagar
through its Honorary Secretary
5. Head Master,
K.J.Somaya High School,
Shrirampur

..Respondents

Mr. Vinod Patil, Advocate for petitioner
Mr. A.S.Shinde, AGP for respondent nos.1 to 3
Mr. S.V.Dixit Advocate h/f. Mr.S.B.Yawalkar, Advocate for
respondent nos.4 and 5

**CORAM : SUNIL P. DESHMUKH
AND
R.G. AVACHAT, JJ.
DATE : MARCH 22, 2019**

ORAL JUDGMENT (*PER SUNIL P. DESHMUKH, J.*):

Rule. Rule made returnable forthwith. With the consent of the parties, heard finally.

2. The petitioner seeks mandamus to forward his pension papers to the Education Officer.

3. Indisputably, the petitioner is possessing educational qualifications LTC B.A. She had been appointed as a part-time librarian with respondents no.4 and 5 with effect from 01.08.1990. She continued to work as such till 30.06.2011. Subsequently, when vacancy in the post of full-time librarian occurred in school run by employer, the petitioner occupied the post and worked as full-time librarian with effect from 01.07.2011. She continued to work as full time librarian, till her superannuation on 31.12.2013. Service of the petitioner have been approved by Education Officer.

4. Learned Counsel for the petitioner submits that despite rendering services by the petitioner as above, respondent nos.4

and 5 had been reluctant to forward petitioner's pension papers to the Education Officer accordingly. Learned Counsel refers to Rules 30 and 57 of the Maharashtra Civil Services (Pension) Rules, 1982 ("the Rules", for short) and points out Note 1 under the same. He further refers to a decision a division bench of this court in the case of *Mukund s/o. Bapurao Dhadkar Vs. State of Maharashtra and ors., Mukul, 2016(3) Mh.L.J. 282*, wherein, in similar circumstances, the court had directed to convert the total part time service of the petitioner therein into half of the full time service and take into account the period for which the petitioner had worked as a full-time librarian. Learned Counsel particularly, refers to the observations made in paragraphs no.8 and 9 of said decision.

5. Mr.Dixit, learned Counsel for respondent nos.4 and 5, however, submits that the request being made in the present Writ Petition would be incongruous to Rule 57. He submits that since the petitioner was not paid from the contingencies, Note 1 under Rule 57, would not be of any assistance for computation of half of the period, as contended on behalf of the petitioner.

6. This situation has been considered by the decision of another division bench in the case of *Jayshree wd/o. Narayan Mhaske Vs.*

State of Maharashtra and ors, 2005(3) Mh.L.J. 492, wherein as well, there has been nothing placed on record to substantiate that the petitioner therein had been paid from contingencies. So is the case in the present matter.

7. In our view, the facts in the present case are quite similar to the facts in the case of *Mukund* (supra). We, therefore, deem it appropriate to allow the Writ Petition.

8. The Writ Petition is, therefore, allowed in terms of Prayer Clause (B). Rule is made absolute accordingly.

[R.G. AVACHAT, J.]

[SUNIL P. DESHMUKH, J.]

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