

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

30 WRIT PETITION NO.11989 OF 2017
WITH CA/10385/2019 IN WP/11989/2017

Natakshi Rajendra Chavan,
Age 44 yrs., Occ. Nil,
R/o Kanlada, Tq. & Dist. Jalgaon.

... Petitioner.

... **Versus** ...

- 1 The State of Maharashtra
Through its Secretary,
School Education Department,
Mantralaya, Mumbai.
- 2 The Education Officer (Secondary),
Zilla Parishad, Jalgaon.
- 3 The Accountant General, Nagpur,
Dist. Nagpur.
- 4 The Shendurni Secondary Education,
Co-operative Society Ltd.,
Tq. Jamner, Dist. Jalgaon.
Through Its Chairman/Secretary.
- 5 N. P. Patil Secondary School, Palaskhede,
(Mirache), Tq. Jamner, Dist. Jalgaon.
Through Its Head Master.

... Respondents.

...

Ms. Surekha P. Mahajan, Advocate for the petitioner
Mr. G.O. Wattamwar, AGP for the respondent Nos.1 to 3
Mr. R.R. Mane, Advocate for the respondent Nos.4 and 5

...

**CORAM : SUNIL P. DESHMUKH &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 11th NOVEMBER, 2019

PER COURT :

1 Heard learned counsel appearing for the parties. The petition has been moved by wife of one Rajendra P. Chavan, who had been working as Teacher since 30.07.1988. According to petitioner, ailing health of the husband of petitioner, consequently had affected him mentally and same caused disruption in service since 2001. He was neither removed nor dismissed nor any inquiry had been carried out. He died in 2012. His death had rendered the family members disconcerted. The teacher and the family members were passing through dire straits. Attending the health and other afflictions of husband, wife could not move around and take action seeking security benefits arising out of services of the husband. In the circumstances around in 2015 an application had been moved by wife with the management seeking a proposal for pension.

2 Learned counsel for the petitioner has taken us through various rules under Maharashtra Civil Services (Pension) Rules, particularly Rules 23, 35 and 110 and Maharashtra Civil Services (Leave) Rule 51. It is submitted

by her that cumulative effect of the rules and service rendered, would certainly make petitioner's husband as well as her after his death, entitled to the pensionary benefits. In the circumstances, direction is solicited to the respondents to consider the case of petitioner, accordingly.

3 Learned counsel for the petitioner purports to refer to that on proper reading of relevant rules referred above and having regard to the circumstances, petitioner may get the benefit of services by her husband, enabling in computation to be more than 15 years and on that basis a proposal will have to be submitted.

4 During the course of hearing learned counsel for the management has stated that a resolution had been passed by management, on the basis that petitioner's husband had rendered service of about 14 years and that a proposal would be submitted for pensionary benefits to petitioner.

5 Learned AGP submits that since 2001 petitioner's husband had not resumed duty. In the circumstances, having regard to Rule 16(3) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, it would tantamount to abandonment of service and/or otherwise termination/removal.

6 Having regard to aforesaid, we deem it expedient that petitioner

would submit a proper application to the management with reference to the rules and facts and circumstances within a period of four weeks. The management may accordingly forward a proposal to the concerned authority within a period of three weeks upon its receipt of application from petitioner. The authority concerned shall decide the proposal, if submitted, in accordance with facts and law, as early as possible, preferably within a period of four months from the date of receipt of proposal. Writ petition is disposed of in aforesaid terms.

7 Civil application, in view of aforesaid, is disposed of.

(Smt. Vibha Kankanwadi)
JUDGE

(Sunil P. Deshmukh)
JUDGE

agd