

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

WRIT PETITION NO.1007 OF 2019

Sou. Nilima Shriniwas Bhagwat,	]	
Age:62 years, Occu: Retired,	]	
R/o:471, Sadashiv Peth, F-12 Shriniwas,	]	
Co-op. Housing Society, Pune-411 030	]	..Petitioner

Versus

1] State of Maharashtra,	]	
Through its Secretary Higher and	]	
Technical Education Department,	]	
Mantralaya, Mumbai-400 032.	]	
2] The Director of Education,	]	
Shikshan Sanchanalaya (Higher Education)	]	
State of Maharashtra,	]	
Central Building, Pune-411 001.	]	
3] The Savitribai Phule Pune University,	]	
Through its Registrar,	]	
Ganeshkhind, Pune-07.	]	..Respondents

Mr. S. R. Moray I/by Mr. V. S. Talkute, Advocate for the Petitioner.
Mr. V. M. Mali, AGP for Respondent Nos.1 & 2.
Mr. Rajendra Anbhule, Advocate for Respondent No.3.

**CORAM : B. R. GAVAI &
SANDEEP K. SHINDE, JJ.
DATE : 24th APRIL 2019**

ORAL JUDGMENT (Per B. R. Gavai, J)

1] Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2] The Petitioner has approached this Court praying for a

direction to Respondent No.2 to complete the formality with regard to grant of pensionary benefit to the Petitioner.

3] The Petitioner after rendering 35 years of continuous service including temporary service of more than 12 years, superannuated on 31st October 2014. Since the Petitioner's papers for pensionary benefit were not being processed, she has approached this Court for a direction to Respondent No.3 to submit the proposal to Respondent No.2 and further direction to Respondent No.2 to sanction the same.

4] In response to the notice issued by this Court, an affidavit in reply is filed by Dr. Dhanraj Raghuram Mane, working as Director in the office of Respondent No.2. In the reply, it is stated that the proposals with regard to the Petitioner as well as other employees, who were overage on the date of appointment have been received from Respondent No.3 and the same are forwarded to Respondent No.1. It is however submitted that Respondent No.1 has raised several queries including overage, in the proposal submitted by Respondent No.3 and those queries are replied by Respondent No.2.

5] The various Division Benches of this Court in various Writ Petitions have taken a view that the objection with regard to a candidate being overage, at the time of recruitment, cannot be permitted to be

taken at the stage of retirement. It has been held that pensionary benefits cannot be denied solely on the ground of overage at the time of appointment.

6] In that view of the matter, since we find that the only objection that appears to have been raised on behalf of Respondent No.1 is that the Petitioner was overage at the time of her appointment, the same cannot be a ground for denial of pensionary benefit to the Petitioner. The Writ Petition is therefore allowed. The Respondent Nos.1 and 2 are directed to sanction the proposal submitted by Respondent No.3 for grant of pensionary benefits. The same shall be done within a period of six weeks from today. The Petitioner shall be paid pension from the month of July 2019. All arrears to which the Petitioner would be entitled shall be cleared within six months from today.

7] Rule is accordingly made absolute in the aforesaid terms, with no order as to costs.

[SANDEEP K. SHINDE, J.]

[B. R. GAVAI, J.]