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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2690 OF 2016

Mr. Shashikant Namdeo Gaikwad … Petitioner.

V/s.

The State of Maharashtra through
the Secretary, School Education
Department and Ors. ... Respondents.

Mr. N.V. Bandiwadekar I/b. Sagar A. Mane for the Petitioner.

Ms. Nisha Mehra, AGP for Respondents 1 and 2.

CORAM : PRADEEP NANDRAJOG,C.J. &
N.M. JAMDAR, J.

DATE : 14 JUNE 2019.

P.C. **:-**

The State of Maharashtra had implemented a pension scheme for its employees benefit whereof was also accorded to employees of private aided schools. The said pension scheme became non-applicable to employees who joined services after 1 November 2005 and needless to state employees of private aided schools employed after said date would be dis-entitled to claim membership of the provident fund scheme introduced in the year 1982.

2. On 30 November 1995, the Petitioner was appointed as a part time Librarian in a school established by the fourth Respondent. Approval to the appointment was granted on 7 November 1997. The post was upgraded to that of a full time Librarian and thus, on 13 March 2007 an appointment letter was issued appointing the Petitioner as a Full Time Librarian. Approval to the same was accorded by the Education Department on 17 March 2007. In the year 2010, Provident Fund Account No. 914/23320 came to be issued to the Petitioner by the Superintendent, Pay and Provident Fund Unit (Secondary), Zilla Parishad, Solapur. The Petitioner came to be transferred to another institution established by Respondent No.4 and on 31 July 2013, the Headmaster of the said school submitted a proposal desiring that a new account number be granted to the Petitioner. On 30 December 2015, the Education Officer of the Zilla Parishad rejected

the proposal on the plea that the full time appointment being after 1 November 2005, the Petitioner could not become a member of the old pension scheme.

3. Case of the Petitioner is that once he was admitted as a member of the old pension scheme, he could not be de-registered from the membership of the scheme.

4. Suffice it to highlight that the Petitioner's entitlement to become a member of a superannuation fund came into force on 3 March 2007 when he was appointed as a full time Librarian. It was thus a wrong committed by the Pay and Pension Account Officer when in the year 2010 the Petitioner was alloted a Provident Fund Account number and made a member of the Provident Fund Scheme.

5. Declaring that the entitlement of the Petitioner would be to become a member of the new pension scheme, we dispose of the Petition directing that upon the Petitioner submitting documents to

be made a member of the new pension scheme, the same shall be processed by the Competent Authority in accordance with law. Needful shall be done within three months of the Petitioner submitting the requisite documents.

N.M. JAMDAR, J. **CHIEF JUSTICE**