

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6370 of 2016

Dr.(Mrs.)Julfikar Banu Makhtum Desai ... Petitioner

v/s.

The State of Maharashtra & ors. ... Respondents

Mr.C.G.Gavnekar a/w. G.S.Hiranandani & Ashutosh Gavnekar for the
petitioner.

Mrs.R.M.Shinde, AGP for respondents 1 to 3.

CORAM : B.R. GAVAI &
DAMA SESHADRI NAIDU, JJ

23rd APRIL 2019.

P.C.

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

2. It is not disputed that the facts in the present case are identical
with facts of group of petitions being Writ Petition No.8985/2011
decided on 9th May 2014. The Division Bench of this Court

(Coram:S.S.Shinde & V.K.Jadhav,JJ) after considering the entire scenario has held thus:-

“We hold the cut-off date 27th February, 2009 prescribed in Government Resolution dated 30th October, 2009 for payment of revised pension under the Maharashtra Civil Services (Pension) Rules, 1982, making it applicable to those employees who retired from 27th February, 2009 and not to those employees, who retired in between 1st January, 2006 to 26th February, 2009, as unconstitutional.

In the light of discussion herein above, as a sequel to the above, we direct that within three months from the date of receipt/production of copy of this order, the State Government shall pay to the petitioners and other similarly situated employees, the difference of the pension and revised pension payable.

We make it clear that, we have considered the controversy only confined to the cut-off date applied in Government Resolution dated 30th October, 2009 to those retirements from 27.2.2009 vis-a-vis the employees who retired between 1st January, 2006 to 26th February, 2009 for payment of revised pension. We only declare the said cut-off date as unconstitutional. We have not tested the rest of the provisions of the said Government Resolution, since it did not fall for our consideration, which shall remain unaffected.”

3. The State in the affidavit-in-reply submitted that the said judgment is challenged before the Hon’ble Apex Court, however, the

learned Counsel for the petitioner has placed on record the order of the Hon'ble Supreme Court thereby dismissing the SLP filed by the State.

4. In that view of the matter, Rule is made absolute in terms of judgment and order passed by Division Bench of this Court in Writ Petition No.8985/2011 dated 9th May 2014.

(DAMA SESHADRI NAIDU, J)

(B.R.GAVAI, J)

L.S. Panjwani, P.S.