

(Prod) –WP 928 of 2007.

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

(Modified as per Speaking to the Minutes of the order dt. 26th March, 2019.)

WRIT PETITION NO.928 OF 2007

Bhalchandra Damodar Raut and others ..Petitioners

Versus

State of Maharashtra and others ..Respondents

Mr. Vishwanath S. Talkute, Advocate for the Petitioners.

Ms. R. M. Shinde, AGP for Respondent No.1 - State.

**CORAM : B. R. GAVAI &
DAMA SESHADRI NAIDU, JJ.
DATE : 18th MARCH, 2019**

P.C.

1] The Petitioners, 15 in number, worked in and retired from the 4th Respondent school. After retirement, they tried to secure their pension and gratuity, but failed. So they have filed this Writ Petition.

2] The Petitioners' counsel has drawn our attention to the Exh.B Government Resolution, dated 22nd July 1985. With its help, he contends that the petitioners have a legitimate claim to pensionary benefits. In this context, the learned counsel has also referred to Exh.C another

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Government Resolution, dated 19th January 1987. In fact, through that resolution, the management of the school in which the Petitioners had worked stood transferred from Social Welfare Department to Agricultural Department. To sum up, the petitioners' counsel maintains that whatever statutory changes that may have occurred after the petitioners' retirement would not defeat their right to terminal benefits.

3] On the other hand, the learned AGP has strenuously opposed the Petitioners' claim. To oppose that claim, he draws our attention to Exh.2, which is the Government Resolution dated 8th November 2005. It holds, according to her, that the categories of establishments mentioned in Exh.2 will not have the pensionary benefits. Thus, she asserts that as the Petitioners have worked in 4th Respondent school, which stands covered by Exh.2; they have rightly been denied the pensionary benefits.

4] Heard Mr. Vishwanath S. Talkute, the learned

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counsel for the Petitioner, and Ms. R. M. Shinde, the learned AGP for the First Respondent-State.

5] Indeed, the Government has extended the benefits of Pension, Grant-in-Aid, and other Retirement Benefits to teaching and non-teaching staff of the categories mentioned in Ext.B proceedings. The benefit must be as has been extended to the employees under the Maharashtra Civil Services (Pension) Rules 1982. True, Ext.B does contain a rider: this facility applies only to the employees retiring on 1st August 1985 or thereafter.

6] That said, we must also examine Exh.2, on which the learned AGP has laid much emphasis. Under that Resolution, the Government applied a new, perhaps better, “Defined Contribution Pension Scheme” to the employees appointed on or after 1st November 2005. This new pension scheme, in fact, replaced the old one. At the same time, the State has also decided not to extend the new pension scheme to “the employees of the existing affiliated

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Institute, Board, University,” and so forth, to whom the old pension was not extended.

7] Indeed, Ext.B proceedings entail the petitioners to the pensionary benefit. And that benefit is circumscribed by only one condition: the employees ought to have retired on or after 1st August 1985. On the other hand, Exh.2 applies prospectively from 1st November 2005; at any rate, it does not affect the petitioners in any way for, by then, the petitioners had been conferred the pensionary benefit. So, irresistible is the conclusion that Exh.2 does not affect the petitioners’ pensionary right.

8] We therefore allow the Writ Petition: the Respondent authorities must grant the retirement benefits—that is, pension and gratuity as applicable—to the Petitioners, under the Maharashtra Civil Services Rules, with all consequential benefits, expeditiously, in three months from the date this judgment is uploaded.

9] The authorities, we also clarify, will ensure that

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the Petitioners receive their pension from 2019 onwards in the time frame fixed above. And they will work out the arrears and pay them to the petitioners in three more months thereafter.

[DAMA SESHADRI NAIDU, J.]

[B. R. GAVAI, J.]