

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2715 OF 2018

DEEPMALA RAMAKANT BHALERAO
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.N.P. Patil-Jamalpurkar, Advocate for the petitioner.
Mr.S.B. Yawalkar, AGP for the respondent Nos.1 to 4.

CORAM : Z.A.HAQ &
S.M.GAVHANE, JJ.
DATED : 04.03.2020

P.C. :-

01. Heard. The husband of the petitioner was working as Head Master in the respondent No.5-School. The respondent No.5-School was recognized for 40% grants from the State Exchequer in 2004-2005, for 80% grants from 2006-2007 and for 100% grants from 2007-2008. The husband of the petitioner died on 16th December 2013, after which the petitioner applied for family pension. This request of the petitioner is not considered and hence the petitioner has approached this Court.

02. The learned Assistant Government Pleader submitted that the point as to whether the employees who were working since prior to 1st November 2005 in aided recognized primary or secondary schools, which were receiving less than 100% grants as on 1st November 2005, would be entitled for pension as per the Maharashtra Civil Services (Pension) Rules, 1982 is decided by the judgment given by Full Bench of this Court in Writ Petition No.8387 of 2013 (Deshmukh Dilipkumar Bhagwan & Ors. Vs. The State of Maharashtra & Ors.) and other connected matters on 30th April 2019. While answering the question No.2 framed by it, the Full Bench recorded that the employees, who were appointed prior to 1st November 2005, in aided recognized primary or secondary schools, which were receiving less than 100% grants as on 1st November 2005, would be governed by the Defined Contributory Pension Scheme.

03. In the present case, though the husband of the petitioner was in service since 1999, the respondent

No.5-School, in which he was working, was not receiving 100% grants as on 1st November 2005. Hence, the claim made by the petitioner for family pension as per the Maharashtra Civil Services (Pension) Rules, 1982, cannot be granted in view of the Full Bench judgment. Hence, the petition is dismissed. In the circumstances, the parties to bear their own costs.

04. At this stage, the learned Advocate for the petitioner submitted that the State Government is reconsidering the issue of grant of pension to the employees, who are deprived of the benefits of the provisions of the Maharashtra Civil Services (Pension) Rules, 1982, after coming into force of the Defined Contributory Pension Scheme. It is clarified that if any such policy decision is taken by the State Government in the matter, this judgment would not come in the way of the petitioner to seek the benefits as per the new policy decision, if taken by the State Government.

05. The petitioner may apply to the concerned authority for the benefits as per the Defined Contributory Pension Scheme and if such application is made, final decision on it would be taken by the concerned authority within three months from the date of receipt of the application.

[S.M.GAVHANE,J.]

[Z.A.HAQ,J.]