

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6551 OF 2018

Shri. Sambha Shankar Jondhale
Age : 78 years, Occu. Retired,
R/o. Shankar Nagar, Behind Shivaji College,
Parbhani,
Ta. and Dist. Parbhani. ... PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Agricultural Department,
Mantralaya, Mumbai – 32.
2. The Vasantryao Naik, Marathawada
Krushy Vidyapith, Parbhani,
Through its Registrar.
3. Incharge Officer
Jawar Research Center, Parbhani,
Vasantryao Naik, Marathawada
Krushy Vidyapith, Parbhani. ... RESPONDENTS

Mr. A. V. Indrale Patil, Advocate for the petitioner
Mr. A. R. Kale, AGP for respondent/State
Mr. B. A. Shinde, Advocate for respondent No.2 and 3.

CORAM : Z. A. HAQ &
S.M. GAVHANE, JJ.
DATED : 24.02.2020

ORAL JUDGMENT (PER : S.M. GAVHANE, J.)

. Rule. Rule made returnable forthwith.

02. By this writ petition, the petitioner has
claimed relief in terms of prayer clause (C) which runs
as under:

“(C) By issuing appropriate writ, order or directions, the respondents be directed to grant pensionary benefits to the petitioner including the monthly pension and other admissible benefits by considering half service rendered by him on temporary basis i.e. about 8 and half years, in addition to service rendered by him on permanent post and accordingly the petitioner be paid arrears of pensionary benefits as well as regular monthly pension along with interest @ 12% per annum and for that purpose necessary directions be issued.”

. Learned advocate appearing for the petitioner submitted that petitioner was working with respondent Nos. 2 and 3 as Labour on temporary basis from the year 1973 to 1990 and he was appointed on sanctioned vacant post of Labour in respondent No. 2-University. He was made permanent on the said post in 1990. The petitioner retired in 1999 and he requested the respondents to release pensionary benefits. But the respondents denied retiral pension. The petitioner claims that he is entitled to pensionary benefits as per Rule 57 of the Maharashtra Civil Services (Pension) Rules, 1982.

03. Learned advocate appearing for the petitioner has relied upon the decision dated 20/09/2017 in Writ Petition No. 8373 of 2016 (Mohammad Hanif Mohammad Ibrahim Vs. The State of Maharashtra and another),

decision dated 29/09/2014 in Writ Petition No. 3061 of 2014 (Shri Dattu S/o Saidu Shinde Vs. The State of Maharashtra & others), decision dated 22/02/2011 in Writ Petition No. 7170 of 2010 (Mohd. Khaja S/o Abdul Hakim Vs. Maharashtra Animal & Fishery Sciences University and others) and decision dated 22/08/2011 in Writ Petition No. 3271 of 2011 (Satyabhamabai @ Bhimabai Kishan Bhanje Vs. The State of Maharashtra and ors.) to support his submission that he is entitled for retiral benefits.

04. In the case of ***Mohammad Hanif Mohammad Ibrahim*** (Supra) in paragraph 5 it was observed thus:

"5. Rule 57 of the Maharashtra Civil Services Pension Rules would be relevant for consideration. As per the said rule, the period rendered on temporary basis has to be counted as half for the purpose of pensionary benefits. We have considered the similar issue in writ petition No. 9605/2015 under order dated 17.11.2016, so also the order passed in writ petition No. 3061/2014 and writ petition No. 7170/2010."

05. Learned advocate appearing for respondent Nos. 2 and 3 opposed the claim of the petitioner, but nothing is produced on record to substantiate the objection. Learned advocate does not dispute the ratio laid down in the decision relied upon by the learned advocate for the petitioner.

06. Considering the fact that there is no dispute that the petitioner was appointed on sanctioned vacant post of Labour in respondent No.2-University in 1973, he was made permanent in 1990 and he retired in 1999, the ratio laid down in the judgments relied upon by the petitioner is applicable to the case of the petitioner and therefore, we are inclined to grant the relief claimed by the petitioner and therefore following order is passed:

- (i) The petition is allowed.
- (ii) The respondents are directed to complete the exercise of calculating and sending the proposal of the petitioner for grant of pension within 02 months and thereafter the retiral and pensionary benefits as admissible shall be paid within 02 months to the petitioner, failing which the amount of retiral and pensionary benefits shall carry interest @ 9% from the date of retirement of the petitioner till payment of amount of pensionary benefits to the petitioner.

07. Rule is made absolute accordingly.

[S.M.GAVHANE,J.]

[Z. A. HAQ,J.]