

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

WRIT PETITION NO.3564 OF 2021

Latabai (Lata) Namdeo Ahire & Ors.	.. Petitioners
Versus	
State of Maharashtra & Ors.	.. Respondents

Mr.Balaji S. Shinde for the petitioners.
Mr.A.A.Alaspurkar, AGP for the respondent nos.1 to 3-State.
Mr.Vivek Rane h/f Mr.A.R. Kapadnis for the respondent nos.4 & 5.

**CORAM : R.D. DHANUKA
R.I. CHAGLA, JJ.**
DATE : 5th AUGUST 2021
(through video conferencing)

P.C.:-

1. Rule. Learned AGP waives service for the respondent nos.1 to 3-State and Mr.Rane, learned counsel waives service for the respondent nos.4 & 5. Heard finally by consent of parties.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner is seeking direction against the respondent nos.4 & 5 to grant pension and all other pensionary benefits and dues/arrears towards pension, from the date of superannuation for the post of Assistant Untrained Teacher.

3. The petitioners are untrained teachers who are working with Zilla Parishad, Nashik. The petitioner nos.1 and 2 are the Assistant Untrained Teachers and the petitioner nos.3 and 4 are widows of the deceased teachers. The Government of Maharashtra to fill up the backlog

and to provide educational facility in the tribal rural area in Nashik District, appointed the petitioners as Assistant Untrained Teachers. The petitioners have served and performed their duties and thereafter retired without completing D.Ed. Course.

4. The petitioners have been superannuated from the services as untrained teachers and period of service had expired on the dates mentioned as below :-

Sr. No.	Name	Date of Appointment	Date of Retirement	Total Service
1.	Latabai (Lata) Namdeo Ahire	01.06.1987	14.01.2017	30 years
2.	Ramabai Baban Pathade	11.09.1978	30.05.2008	29 years
3.	Yadav Laxman Pawar	01.06.1987	Died in service on 08.10.2004	27 years
4.	Dattatrya Santosh Jadhav	17.09.1985	Retired on 30.11.2011 Died on 15.09.2020	26 years

5. Learned counsel for the petitioners has placed reliance upon several decisions of this Court wherein this Court has consistently taken the view that in respect of Assistant Untrained Teachers who were appointed after following due selection process and their appointment was on sanctioned and substantive post and were paid salary as untrained teachers till the date of their superannuation, they were entitled to for pensionary benefits. It was mentioned in the decision of this Court that such benefits shall not be denied to any of the petitioners on the ground that they did not possess the necessary qualification of a trained teacher.

The decisions relied upon by the learned counsel for the petitioners are annexed at pages 30 to 43 of the petition.

6. Learned counsel for the respondent nos.4 & 5 does not dispute the position that issue arising in the present petition has been covered by the decisions of this Court annexed at pages 30 to 43 of the petition.

7. Having considered the submissions we are of the view that the dispute arising in this petition has been covered by the decisions of this Court including the decision of this Court in Pavji Soma Khandvi & Ors. Vs. The State of Maharashtra & Ors. in Writ Petition (St.) No.1570 of 2021, decision dated 5th February 2021 wherein this Court has held that pensionary benefits shall not be denied to any of the petitioners who are untrained teachers who do not possess the necessary qualification of a trained teacher. The petitioners were all appointed after following due process of selection; they were all treated as regular employees working and officiating in their respective posts till the dates of their superannuation.

8. In view thereof, the petition is allowed by directing the respondents to consider the case of each of the petitioners for pensionary benefits. It is made clear that such benefits shall not be denied to the petitioner nos.1 & 2 and predecessor of the respondent nos.3 & 4 on the ground that they did not possess the necessary qualification of a trained teacher. Their cases shall be considered as expeditiously as possible and preferably within a period of eight weeks from today.

9. Writ petition is disposed of in aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs.

R. I. CHAGLA J.

R.D. DHANUKA, J.