

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

WRIT PETITION NO. 3115 OF 2020

Mr. Ramesh jagannath Kashid and Ors.

... Petitioners

Versus

State of Maharashtra and Ors.

... Respondents

Mr. V. S. Talkute for the Petitioners.

Mr. N. C. Walimbe, AGP for the State-Respondent Nos. 1 and 2.

Mr. Rajendra Anbhule for the Respondent No.3-University.

**CORAM: R. D. DHANUKA AND
R. I. CHAGLA, JJ.**

DATE : 3rd AUGUST, 2021.

P.C. :-

. Rule. Learned AGP appearing for the respondent nos. 1 and 2 and learned counsel appearing for the respondent no.3 waive services. Heard finally by consent of parties.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners are seeking directions against the respondents to complete the formalities regarding the grant of pension to the petitioners and further grant pension to the petitioners as expeditiously as possible.

3. The petitioners have retired after rendering more than qualifying service and their retirement details are as under :-

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|------|-----------------------|--------------------------------|
| i. | Name :- | Mr. Ramesh Jagannath Kashik |
| | Date of Retirement :- | 30 th June, 2015 |
| ii. | Name :- | Mr. Liyakat Usman Sayyad |
| | Date of Retirement :- | 20 th October, 2014 |
| iii. | Name :- | Mrs.Kalpana Bhimgauda Biradar |
| | Date of Retirement :- | 31 st October, 2018 |
| iv. | Name :- | Mrs.Surekha Ramchandra Jadhav |
| | Date of Retirement :- | 31 st August, 2019 |

4. The Joint Director of High Education addressed a letter on 19th December, 2013 to the respondent no.2 in respect of the objection of over age of the petitioners.

5. The respondent no.3 addressed a letter on 27th September, 2016 to the respondent no.2 requesting for relaxing the age criteria in case of the petitioners. The respondent no.2 has till date not considered the request made by the respondent no.3-University requesting for such age relaxation in case of the petitioners.

6. Learned counsel for the petitioners submits that the issue arising in this petition has been settled in several decisions of this Court and has placed reliance on the decisions which have been set out at pages 32 to 50 of the petition. He submits that this Court in the said decisions which are annexed to the petition as well as in decision of the Division Bench of this Court in case of **Mr. Ramesh Rambhau Nigade v/s. State of Maharashtra and Ors.** dated 26th July, 2021 has held that the objection regarding overage at the time of appointment cannot be

sustained for denying pension to the respective employees. This Court further held that since the pension of the petitioners had been delayed due to no fault of theirs and despite the law laid down by this Court in catena of decisions, the respondent nos. 1 and 2 is required to pay the pension and dues of the petitioner with interest on the delayed payment of the pension from the date of receiving the dues and until payment. This Court in the said decision of **Mr. Ramesh Rambhau Nigade** (supra) had followed a prior decision of this Court dated 14th April, 2021 in Writ Petition No. 2545 of 2021 in case of **Arun A. Prabhudesai v/s. State of Maharashtra and Ors.** and held that the said issue has been covered and that there is no substance in the submissions made by the learned AGP for the State and ordered all the respondents to release the pension dues.

7. The learned AGP has neither produced any contra material nor relied upon any decision of this Court or Supreme Court in support of his submission that this issue has not been covered. In our view, this petition is squarely covered by the decision which have been relied upon in the petition at pages 32 to 50 as well as the decision of the Division Bench of this Court dated 26th July, 2021 in case of **Mr. Ramesh Rambhau Nigade** (supra).

8. Thus, the request made by the respondent no.3 to relax the age criteria in case of the petitioners should have been favourably considered by the respondent no.2-Director of Education. Hence, it is necessary to pass the following order :-

- i. Respondents are directed to complete the formalities relating to release of pension dues of the petitioners within four weeks from today. Respondent No.3-University shall submit the requisite papers, if any already submitted to the respondent nos. 1 and 2 in realization of the pension dues.
- ii. The respondent nos. 1 and 2 to pass an appropriate order and release the pension dues as expeditiously as possible and in any event within a period of four weeks from the date of receipt of papers from the respondent no.3-University with interest @ 8% p.a. on the delayed payment of pension from the date of due date and until payment without fail.
- iii. It is made clear that if the dues of the petitioners are not released within the time prescribed, the amount will carry interest @ 12% p.a. from the date of expiry of the aforesaid period until payment.
- iv. Writ Petition is disposed off in aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs.

[R. I. CHAGLA, J.]

[R. D. DHANUKA, J.]