

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

WRIT PETITION NO.2482 OF 2019

Geeta Unnikrishnan Nair	.. Petitioner
Versus	
The State of Maharashtra & Ors.	.. Respondents

Mr.Aniket B. Deshkar a/w Mr.Kiran E. Patil for the Petitioner.
Ms.Sushma S. Bhende, AGP for the respondent nos.1 to 4 -State.

**CORAM : R.D. DHANUKA
ABHAYAHUJA, JJ.**
DATE : 22nd November 2021

P.C.:-

. Learned counsel for the petitioner seeks leave to delete the name of the respondent no.5 in the cause title of the petition. Leave is granted as prayed. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Rule. Learned AGP for the respondent nos.1 to 4 waives service. By consent of parties, petition is heard finally.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks writ of certiorari for quashing and setting aside the letter dated 27th July 2017 issued by the respondent no.4 and further seeks writ of mandamus to compute the services of the petitioner as Junior College Teacher on officiating post from her appointment till her confirmation, as qualifying service for the purpose of grant of pensionary benefits.

4. The petitioner was appointed as a Junior College Teacher in the respondent no.5 -Changu Kana Thakur Secondary and Higher Secondary Vidyalaya from 15th June 2003 to 31st May 2007 i.e. for a period of 3 years and 11 months. The petitioner was thereafter confirmed on the said post and continued from 1st June 2007 to 31st May 2016 i.e. for a period of 8 years and 11 months and thereafter retired on superannuation.

5. The case of the petitioner is that pension of the petitioner however was considered by the respondent nos.1 to 4 under new pension scheme i.e. Defined Contributory Pension Scheme (DCPS) and not under old pension scheme, though the petitioner had completed the qualifying service of more than 10 years under the said Maharashtra Civil Services (Pension) Rules (for short “the said Pension Rules”) having been come into effect and was initially appointed on 15th June 2003.

6. Ms.Bhende, learned AGP for the State could not dispute that 50% period of service of the petitioner as Junior College Teacher on part time basis i.e. from 15th June 2003 to 31st May 2007 has to be considered along with the services of the petitioner as full time teacher from 1st June 2007 to 31st May 2016 i.e. for a period of 8 years and 11 months.

7. In the catena of the decisions rendered by this Court, it has been held that the period of 50% of the Teacher as part time service has to be considered for computation of qualifying service with full time service for the purposes of pension. Since admittedly in this case, the

petitioner was appointed as Junior College Teacher on part time basis on 15th June 2003, 50% of the said period i.e. from 15th June 2003 to 31st May 2007 will have to be considered along with the services rendered by the petitioner as full time teacher with effect from 1st June 2007 to 31st May 2016 for the purpose of computation of pension under the said Pension Rules. If the said period is taken into consideration, the petitioner becomes eligible to get benefits under the old pension scheme. It is ordered accordingly. The petitioner would get benefits under the old pension scheme having been initially appointed on 15th June 2003. Computation of pension would be accordingly made by the respondents by considering the provisions of the said Pension Rules and to grant such benefits to the petitioners.

9. The management has already submitted proposal to the respondent nos.1 to 4. The impugned order dated 27th July 2017 passed by the respondent nos.1 to 4 returning the proposal is quashed and set aside. The management is directed to submit fresh proposal to the respondent nos.1 to 4 by giving effect to this order within two weeks from today. Upon receipt of the fresh proposal, the respondent nos.1 to 4 to consider the said proposal within four weeks from the date of receipt of such proposal and to pay all consequential benefits within two weeks thereafter without fail.

10. Writ petition is allowed in aforesaid terms. Rule is made absolute. Parties to act on the authenticated copy of this order.

ABHAYAHUJA, J.

R.D. DHANUKA, J.

