

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No. 217/2021

Ambadas Haribhau Kathle
..VS..
Dr. Punjabrao Deshmukh Krishi Vidyapeeth

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.M. Sudame, Advocate for the petitioner
Shri A.R. Sambre, Advocate for the respondent

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATED : 22/03/2021

Hearing was conducted through Video Conferencing and the learned Counsel appearing for the petitioners agreed that the audio and visual quality was proper.

2. The petitioner by this writ petition has prayed for declaration that the petitioner is entitled for grant of pension by counting half service rendered on temporary basis and full service rendered on permanent basis under Rule 57, Note-I of the Maharashtra Civil Services (Pension) Rules, 1982 with further direction to the respondent to pay pension to the petitioner of the post

held by him before retirement alongwith other retirement dues such as, Debt-cum-Gratuity, encashment of leave, Group Insurance and other retirement benefits together with interest @ 18% per annum.

3. The petitioner, in his petition has nowhere stated that even though he has agreed to be subject to the Defined Contribution Pension Scheme as promulgated by the State of Maharashtra w.e.f. 01.11.2005, he is entitled to regular pension, in addition to pension under the said Scheme.

4. This petition has been kept today for clarification to be given by the petitioner. Today, the learned Counsel for the petitioner, on instructions, submits that the petitioner has not only accepted his being subject to the Defined Contribution Pension Scheme, but has also received the amount which was due and payable to him under the Scheme. He submits that at the time of filing of this petition this fact was not informed to him by the petitioner.

5. This is a case wherein, the claim of the petitioner would have to be grounded only in the Defined

Contribution Pension Scheme which was brought into force w.e.f. 01.11.2005 and not under Rule 57 of the Maharashtra Civil Services (Pension) Rules, 1982, as the petitioner joined the service after the said date and had accepted the condition that he would be governed by the Defined Contribution Pension Scheme. Then, the petitioner has also received the amount due and payable to him under the Defined Contribution Pension Scheme and that too without making any protest. The petitioner has also not challenged his appointment letter which makes it clear that he would be governed by the Defined Contribution Pension Scheme. In these circumstances, we find that by filing such a petition, the petitioner has made an attempt to mislead the Court and, therefore, this petition deserves to be dismissed with costs.

6. The petition stands **dismissed** with costs of Rs.5000/- to be deposited by the petitioner in the High Court Bar Association, Nagpur for the purpose of development of Library.

JUDGE

JUDGE