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

**3 WRIT PETITION NO.1996 OF 2022**

**SUNIL CHANDRARAO ATTARGEKAR  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr Ram S. Shinde, Advocate for petitioner;  
Mr S. G. Sangle, A.G.P. for respondent Nos.1 & 2  
Mr P. R. Tandale, Advocate for respondent No.3

**CORAM : RAVINDRA V. GHUGE  
AND  
ARUN R. PEDNEKER, JJ.**

**DATE : 17th August, 2022**

**PER COURT:**

1. This is a second round of litigation for the petitioner in this Court. He has put forth prayer clauses (B), (C) and (D), which read as under :-

*“B] By issuing writ of certiorari or order or direction in like nature, the communication issued by the office of respondent no.2 on 21.09.2021 to the petitioner and the respondent no.3 may kindly be quashed and set aside.*

*C] By issuing writ of mandamus or order or direction in like nature, the respondent no.2 may be directed to consider the proposal of petitioner for pension and pensionary benefits and to grant the sanction.*

*D] The respondent 1 to 3 may be directed to grant the approval to the proposal of petitioner and deposit the entire arrears of monthly pension from May 2018 till realization of*

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*amount and pensionary benefits along with 9% p.a. interest in this Hon'ble Court."*

2. We have perused the earlier judgment of this Court, dated 15/01/2021 (Coram : Sunil P. Deshmukh and Abhay Ahuja, JJ.), delivered in Writ Petition No.3916/2019, filed by the present petitioner. After considering the relevant provisions of the Maharashtra Civil Services (Pension) Rules 1982 (hereinafter referred to as 'the MCS Rules'), in a detailed judgment, this Court finally concluded in paragraph Nos.7 to 11, as under :-

*"7] After hearing the learned counsel, position appears to emerge that there is material showing petitioner had been appointed on 01-04-1996 as a clerk on the post and his appointment in the same had been accorded permanency in 1998. Pursuant to rules referred to above, situation will have to be relooked into, without devitalizing the claim for voluntary retirement on technicalities if it is otherwise legitimate.*

*8] Claimed emerging position that petitioner having been appointed from 1994/1996, if is not incorrect, a perfunctory and pedantic approach better be eschewed. The case of petitioner may be taken into account with reference to the documents which have been part of the proposal placed on record referring to his initial posting from 01-04-1996. If that be so, the application of petitioner may have to be given treatment as contemplated under the M.C.S. (Pension) Rules and the notice in such a case may not be treated to be defective for non completion of 20 years*

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*service, in the peculiar facts and circumstances in this petition.*

*9] In view of the aforesaid, we deem it appropriate that proposal of the petitioner for retiral benefits be examined and reconsidered and be given a proper treatment based on record, as may be available and may also give opportunity to mend the application, if required.*

*10] Writ petition is disposed of.*

*11] Rule made absolute in above terms. No costs.”*

3. Pursuant to the above, the Senior Accounts Officer/PRS, from the office of the Principal Accountant General (A and E)-2, Nagpur, Maharashtra, directed the District Social Welfare Officer, Zilla Parishad, Latur, to re-examine the date of appointment, date of voluntary notice and send the correct pension papers, along with the service book in terms of the MCS Rules and condonation may be obtained from the Administrative Department of Mantralaya, under Rule 4 of the MCS Rules. It is obvious that, the District Social Welfare Officer, Zilla Parishad, Latur has not initiated any steps thereafter.

4. We have perused the office record of the School, which is duly verified by the Special District Social Welfare Officer, Zilla Parishad, Latur, concluding that the date of appointment of the

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petitioner is 04/04/1996 in the pay-scale of 3050-4590 as 'Typist cum Clerk'. It is equally undisputed that the petitioner tendered an application with a notice period of three months for seeking voluntary retirement, on 14/02/2018. After the completion of the three months notice period, during which the petitioner worked until 15/05/2018, the Management accepted the application for voluntary retirement on 16/05/2018. As such, the last day of working for the petitioner was 16/05/2018. He has, thus, completed 20 years, 1 month and 16 days from the date of attaining permanency in employment on 01/04/1998. The record as referred to herein above, indicates his induction in employment on 04/04/1996. If these undisputed dates are accepted, the petitioner has put in around two years in temporary employment and has attained permanency on 01/04/1998.

5. In view of the above, this petition is partly allowed with the following directions :-

(a) Respondent No.3 shall complete the necessary pension papers/proposal for grant of pensionary benefits and retiral benefits to the petitioner, on or before 15/09/2022 and ensure that

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the said papers reach the office of respondent No.2 at Nagpur, through a special messenger, on or before 21/09/2022.

(b) The pension papers/proposal would include the period of employment of the petitioner from 04/04/1996 till 01/04/1998 (temporary period) and the petitioner would be entitled to the benefits of the addition of such temporary period to the extent of 50% while calculating the total pensionable service of the petitioner, in the light of the MCS Rules.

(c) Respondent No.2 shall ensure that the pension papers are cleared and the payment of regular pension along with arrears and interest as is payable under the Rule 129(B) of the MCS Rules and the payment of pensionary benefits along with arrears, shall be paid to the petitioner, on or before 21/10/2022.

(d) In view of the laxity on the part of the Zilla Parishad, the petitioner shall be entitled for costs of Rs.25,000/- (Rs. Twenty Five thousand), especially keeping in view the disobedience of the earlier judgment of this Court, dated 15/01/2021, and the direction of the Senior Accounts Officer of the office of the Principal Accountant General, dated 21/09/2021. This shall be paid by the Zilla Parishad to the petitioner, on or before 30/09/2022.

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(e) We leave it to the Chief Executive Officer, Zilla Parishad, to decide as to whether the District Social Welfare Officer is responsible for such delay and after following the due procedure in law and by adhering to the principles of natural justice, liability be fixed on the officer, due to whom the delay has been caused and the costs be recovered from the said officer.

(f) Gratuity shall be calculated by the Zilla Parishad and shall be paid to the petitioner in the light of the above, on or before 15/10/2022, along with interest, as is payable to him under Rule 129(A) of the MCS Rules.

**(ARUN R. PEDNEKER, J.)**

**(RAVINDRA V. GHUGE, J.)**

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