

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

WRIT PETITION NO.2803 OF 2019

PURBHA SAMBHAJI JONDHALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

AND
WRIT PETITION NO.7146 OF 2019

HARIBAI GANGADHAR GARUDE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...

Advocate for the Petitioner : Shri Patil Indrale Anand V.
AGP for Respondent 1/ State : Shri P.S. Patil
Advocate for Respondents 2 and 3 : Shri Bhagwat A. Shinde

...

**CORAM : RAVINDRA V. GHUGE
&
S.G. DIGE, JJ.**

DATE :- 28th March, 2022

Per Court :-

1. This Court had considered the submissions of the learned advocates for the respective sides on 11.03.2022 and had passed the following order :-

“1. Though in our prima facie view the issue raised by the petitioner for consideration that the period of service on temporary basis has to be considered along with service rendered by him on

permanent post for the payment of pension, is covered by the catena of decisions, some of which are annexed to the petition, we are granting adjournment reluctantly to the learned counsel for respondent Nos. 2 and 3 at his request as a last chance for two weeks. It is made clear that no further adjournment would be granted. Place the matter high on board on 28th March 2022.”

2. The issue raised before this Court is as regards failure on the part of respondent No.2/ University in processing the papers of the petitioners for grant of monthly pension and admissible benefits, for almost 11 years. The petitioner in the first petition has superannuated on 31.01.2010 whereas, the petitioner in the second petition has superannuated on 31.01.2013. The issue is as regards grant of pensionary benefits by considering the period of temporary service put in by both these petitioners. The first petitioner was regularized in employment in 2002 and the second petitioner was regularized in 2003. Though qualifying service for pensionary benefits is 10 years, earlier temporary service which can be reckoned with under Rule 57 of the Maharashtra Civil Services (Pension) Rules, 1982 to the extent of 50%, would change the calculations of the pensionary benefits to which these petitioners would be entitled to.

3. The learned advocate for the petitioners relies upon the following orders/ judgments passed by this Court :-

(a) Dagdu Madhavrao Mundhe vs. The State of Maharashtra, Writ Petition No.39/2017 decided on 06.01.2017.

(b) Dattu Saidu Shinde vs. The State of Maharashtra, Writ Petition No.3061/2014 decided on 29.09.2014.

(c) Mohd. Khaja Abdul Hakim vs. Maharashtra Animal and Fishery Sciences University, Writ Petition No.7170/2010 decided on 22.02.2011.

(d) Satyabhamabai @ Bhimbai Kishan Bhanje vs. The State of Maharashtra, Writ Petition No.3271/2011 decided on 22.08.2011.

(e) Mahatma Phule Krishi Vidyapeeth vs. Ganpat Kisan Karle, 2016 (3) AIR Bom R 697 : 2016 (4) Bom. C.R. 790.

4. It goes without saying that every person has to be treated with respect and dignity. When it comes to a retired employee, the model employer would ensure that he retires in peace and the process of initiation of payment of pensionary benefits is smooth. It is unconscionable and inhumane to cause a retired employee to knock the doors of this Court begging for

pensionary benefits and that too for couple of years after his retirement.

5. What shocks our judicial conscience is the fact that the respondent Registrar of the University has entered an affidavit in reply through Purbha Kondiba Kale, Deputy Registrar, wherein, it has been categorically stated in paragraph 5 that the petitions are not maintainable at all and the petitioners are not entitled for any reliefs as claimed. Statute 138 of the Statutes of 1990 are quoted to contend that the Maharashtra Civil Services Rules, as amended from time to time and as applicable to the State Government employees, are made applicable *mutatis mutandis* to the employees of the University. It is further submitted that under Section 12 of the Act of 1983, the Maharashtra Council of Agriculture Education and Research has been established and that is the controlling authority. It is then stated that the petitioners were appointed on daily wages and were continued with technical breaks after completion of 03 or 06 months. It is admitted that the petitioners were regularized from 12.12.2002 and 06.10.2003, respectively. It is also conceded that the petitioners have retired on 31.01.2010 and 31.01.2013, respectively.

6. We find from the conduct of the Registrar of the University that despite this Court having delivered several judgments, which are relied upon by the petitioners as set out herein above, and when the law is no longer res-integra, the Registrar should have adopted a pragmatic approach instead of taking a pedantic view in the matter. We find that the objection of the Registrar is merely to tire out these petitioners and cause them continued harassment over the last decade by refusing to forward their proposals for pensionary benefits by taking into account their temporary tenure of employment to the extent of 50% to be reckoned with, while calculating pensionary benefits.

7. In view of the above, these Writ Petitions are allowed and the following directions are issued:-

(a) The Registrar of respondent No.2/University shall ensure that all pension papers of these two petitioners are prepared and are forwarded to the Accountant General, on or before 30.04.2022.

(b) The competent authority from the office of the Accountant General would process the pension papers and ensure that the arrears of pension as well as the payment of regular monthly pension commences on or before 30.06.2022.

(c) For the continued harassment caused to these petitioners by the Registrar of respondent No.2/ University, we deem it fit in these two cases to impose costs of Rs.5,000/- (Rupees Five Thousand) to be paid by the Registrar from his salary bank account, to each of the petitioners, on or before 30.04.2022.

(d) We were about to direct the Vice Chancellor of the respondent University to initiate strict disciplinary action against the Registrar. However, the learned advocate for the University has urged us to give him one chance for reformation, with the assurance that henceforth he will not indulge in any such acts.

kps (S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)