

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 WRIT PETITION NO. 8624 OF 2021

TUKARAM HARIBHAU SHERE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Shashikant T. Chalikwar
AGP for Respondent No. 1 : Mrs. M.A. Deshpande
Advocate for Respondent Nos. 2 & 3 : Mr. B.A. Shinde

...

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

DATE : 29th MARCH, 2022

PER COURT :-

1. We have considered the submissions of the learned advocates for the respective sides.
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 petitioner for grant of monthly pension and admissible benefits, for almost 11 years. The petitioner has superannuated on 30-11-2012. The issue is as regards grant of pensionary benefits by considering the period of temporary service put in by the petitioner.
3. The petitioner was regularized in employment in 2004. 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 the petitioner would be entitled to.

4. The learned advocate for the petitioner 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 S/o 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.
- (f) Radhakishan Bhaurao Shinde vs. State of Maharashtra and others, Writ Petition No. 18 of 2017, decided on 1st March, 2017.

(g) Shri Raghunath Mahatrba Golde vs. State of Maharashtra and others, Writ Petition No. 6052 of 2017, decided on 9th August, 2017.

(h) Shri Sambha Shankar Jondhale vs. The State of Maharashtra and others, Writ Petition No. 6551 of 2018, decided on 24-02-2020.

5. 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.

6. 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 petition is not maintainable at all and the petitioner is not entitled for any reliefs as claimed. Statute 138 of the Statutes of 1990 is 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 petitioner was appointed on daily wages and was continued with technical breaks after completion of 03 or 06 months. It is admitted that the petitioner was regularized from 24-11-2004. It is also conceded that the petitioner has retired on 30-11-2012.

7. 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 petitioner 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 this petitioner and cause continued harassment over the last decade by refusing to forward his proposal for pensionary benefits by taking into account his temporary tenure of employment to the extent of 50%, while calculating pensionary benefits.

8. In view of the above, the Writ Petition is allowed and the following directions are issued:-

- (a) The Registrar of respondent No.2 / University shall ensure that all pension papers of the petitioner 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 the petitioner by the Registrar of respondent No.2/ University, we deem it fit to impose costs of Rs.5,000/- (Rupees Five Thousand) to be paid by the Registrar from his salary bank account, to the petitioner, on or before 30-04-2022.

9. 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 support any such acts.

(S.G. DIGE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE