

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

75 WRIT PETITION NO.11558 OF 2022

VIJAYMALA RATAN SAVLE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Anand V. Patil Indrale.
AGP for Respondent/State: Mr. S. G. Karlekar.
...

CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 06th December, 2022.

Per Court :

1. The petitioner has put forth prayer clauses 'B', 'C' and 'D' as under:-

"B] By issuing appropriate writ, order or directions, it be held and declared that, considering the fact that, the recruitment process regarding appointment of petitioner on the post of teacher being initiated and concluded before the cutoff date i.e. 31st October, 2005, the petitioner is governed by old pension scheme and not by new DCPS scheme and for that purpose necessary directions be issued.

C] It be held and declared that petitioner is entitled for old pension scheme in terms of provisions of Maharashtra Civil Services (Pension) Rules, 1982

and other Pensionary benefits. Consequently the respondents be restrained from applying New Pension Scheme i.e. DCPS Scheme to the petitioner forcibly and for that purpose necessary direction be issued.

D] Pending hearing and final disposal of the writ petition the effect, operation, implementation and execution of the impugned Government Resolution dated 31st October, 2005 to the extent of petitioner be stayed.”

2. The petitioner has vehemently contended that the recruitment process for the appointment as Shikshan Sevak was initiated prior to 31st October, 2005. However, the advertisement is dated 7th December, 2005. The appointment order is dated 16th December, 2005.

3. The learned AGP points out that the appointment order clearly indicates that the petitioner would be covered by the Defined Contributory Pension System (DCPS) introduced by the Government Resolution dated 31st October, 2005. The learned AGP further relies upon the judgment delivered by this Court in ***Dnyaneshwar Balasaheb Sonawane and others Vs. The State of Maharashtra and others, Writ Petition No.12023 of 2021, dated 10.06.2022.***

4. We, therefore, find that the selection process was initiated by virtue of the advertisement after 31st October, 2005. Nevertheless, it is well settled that the candidate has to be appointed prior to 1st November, 2005, in order to be eligible for the benefits of the old family pension scheme. We do not find any ground to grant exemption to the petitioner from the Government Resolution dated 31st October, 2005.

5. In view of the above, this petition being devoid of merits is, therefore, dismissed.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]