

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

WRIT PETITION NO.12764 OF 2022

Smt.Anjana Khasaba Deokar
Age : 55 years,
Occupation : Retired Nurse,
R/o C/o Mr.Shaktinandan Shrimantrao Babar,
Beed, Tq. & Dist.Beed.

...PETITIONER

-VERSUS-

1. The State of Maharashtra.
Through it's Principal Secretary,
Ministry of Rural Development
and Zilla Parishad.
2. The Divisional Commissioner,
Aurangabad.
3. The Chief Executive Officer,
Zilla Parishad, Beed.
4. The District Health Officer,
Zilla Parishad, Beed.

...RESPONDENTS

...
Advocate for the Petitioner : Shri Naik Thigle Girish K.
AGP for Respondents 1, 2 and 5/State : Shri S.G. Sangle
Advocate for Respondents 3 and 4 : Shri S.B. Bhosale
...

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

DATE :- 15th December, 2022

ORAL JUDGMENT (*Per Ravindra V. Ghuge, J.*) :

1. Leave to add the competent scrutiny committee at

Satara as respondent No.5. The learned AGP causes an appearance on behalf of the said committee.

2. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

3. The petitioner has put forth prayer clauses B and C as under :-

“B. Rule may kindly be made absolute thereby quashing and setting aside the impugned condition of submission of Caste Validity certificate for releasing the pensionary benefits of the petitioner by respondent authorities vide impugned orders dated 12.08.2020, 29.10.2020, 21.08.2020, 21.05.2021 and 14.01.2022.

C. Rule may kindly be made absolute thereby issuing appropriate writ in the nature of Writ of Mandamus or any other appropriate writ or direction in the like nature directing the respondents to grant the pensionary benefits along with accrued interest in accordance with rules within a stipulated period of four weeks from the date of order of the Hon’ble Court.”

4. The dates and events germane to the present case are as under:-

(a) The post of the Assistant Auxiliary Nurse and Midwife (ANM) (Grade-III) was available with the Zilla Parishad in 1993.

(b) The said post was reserved for the Scheduled Tribe category.

(c) The Zilla Parishad did not find a Scheduled Tribe

category candidate.

(d) The petitioner belongs to the NT-C category (“Dhangar” caste).

(e) The petitioner was selected on 28.06.1993 against the reserved post for the Scheduled Tribe and she joined on 03.07.1993.

(f) The petitioner opted for voluntary retirement by tendering an application on 01.02.2019, which was accepted w.e.f. 06.05.2019.

(g) On 18.11.2019, the petitioner received the first notice from the Zilla Parishad for submitting the validity certificate in order to process her retiral benefits.

(h) The provisional pension that was being paid to the petitioner after her VRS, was stopped w.e.f. 01.05.2020.

5. The learned advocate for the petitioner submits, on instructions, that the petitioner will tender an affidavit undertaking till tomorrow declaring that she will draw only provisional pension until her claim is decided by the competent committee. If her claim is validated, she would be entitled for all retiral benefits. If her claim is invalidated by the committee, she would pray for only provisional pension and she would subject herself to the result of the litigation in the court that would

commence. She further undertakes that if she fails in the litigation journey, she would give up her retiral benefits, in the light of *Chairman and Managing Director, Food Corporation of India and others vs. Jagdish Balaram Bahira and others*, (2017) 8 SCC 670, *Vijay Kishanrao Kurundkar vs. State of Maharashtra and others*, 2020 AIR (SC) 3715 : 2020 SCC Online SC 834, *Chandrabhan vs. State of Maharashtra and others*, 2021 (9) SCC 804 : 2021 (5) ALL M.R. 418 and *Chief Executive Officer, Bhilai Steel Plant, Bhilai vs. Mahesh Kumar Gonnade and others*, 2022 LiveLaw (SC) 572.

6. The learned advocate, representing the Zilla Parishad, relies upon the Government Resolution dated 30.07.2019, to contend that even if a person has retired or succeeded in getting the VRS, unless the claim is validated, the employer cannot grant retiral benefits.

7. We do not take issue with the submissions of the learned advocate since they are in tune with what has been held by the Honourable Supreme Court in the above referred judgments.

8. In view of the above, this Writ Petition is disposed off with the following directions:-

(a) The petitioner shall tender an affidavit undertaking as assured above, till 20.12.2022 in this Court and a copy of the

same be tendered to the Chief Executive Officer, Zilla Parishad, Beed, simultaneously.

(b) The proposal submitted by the petitioner directly to the competent committee at Satara on 24.11.2022, shall be processed by the said committee and it shall be ensured that the said committee would deliver an order in the said proceedings, on or before 30.06.2023.

(c) In the event, the competent committee at Satara has returned the proposal of the petitioner, the petitioner shall process her proposal through the Zilla Parishad and the Zilla Parishad shall promptly forward the said proposal to the said committee for validation.

(d) The petitioner shall render wholehearted cooperation to the committee and shall refrain from seeking unnecessary adjournments on trivial or unreasonable grounds, lest the committee would be justified in progressing to the next stage in the proceedings.

(e) The petitioner's email ID and her cellular phone number details are : shaktibabar@gmail.com and 9822298031.

(f) The Committee is at liberty to enter into correspondence with the petitioner by email as well as whatsapp mode.

(g) The petitioner's provisional pension from

01.05.2020 would be released within SIX WEEKS from today and her regular provisional pension would be paid to her on month to month basis till the decision by the committee.

9. Rule is made absolute accordingly.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)