

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8095 OF 2022

Vikramsinh Balasaheb Bhosale

...Petitioner

vs.

The State of Maharashtra

Thr. Its Secretary Finance

Dept. and Ors.

...Respondents

Mr. Arvind Ambetkar - Advocate for the Petitioner

Mr. V. M. Mali - AGP for the Respondent-State

CORAM :

S.V. GANGAPURWALA AND

S. M. MODAK, JJ.

DATE :

11th JULY, 2022

P. C. :-

1. Petitioner claims to have been appointed on 100% grant in aid post as a part time 'Shikshan Sevak' prior to 01/11/2005, subsequently he is appointed as full time 'Assistant Teacher' on aided post. The Petitioner claims applicability of the old pension scheme.

2. Learned counsel for the Petitioner relies upon the judgment delivered by this Court dated 01/10/2021 in the Writ Petition No. 4748 of 2019 with connected matters and the judgment and Order dated 11/04/2022 in Writ Petition No. 8990 of 2021 with connected writ petitions.

3. In light of the above and for the reasons recorded, we pass the same

Order as follows:-

(i) In view of above, we find it necessary to relegate the case of the Petitioner to the Respondent No.3 -Education Officer, as the case may be, for taking appropriate decision depending upon the outcome of verification and the facts governing the case of the Petitioner.

(ii) The Petition is, therefore, partly allowed and following directions are issued:-

(a) Respondent No.3 – Education Officer, as the case may be, is directed to decide case of the Petitioner regarding applicability of the old pension scheme as per Maharashtra Civil Services (Pension) Rules, 1982 and Maharashtra Civil Services (Computation of Pensions) Rules-1984 and General Provident Fund Scheme by keeping in view law laid down by this Court in its various judgments including the judgments referred to in the body of the judgment.

(b) If it is so found by Respondent No.3 – Education Officer, as the case may be, that the Petitioner is governed by old pension scheme, the Respondent No.3, as the case may be, shall issue necessary directions to

not deduct any amount from the salary payable to the Petitioner governed by the old pension scheme for the purpose of its applying to the DCPS or NPS, and shall also issue necessary directions for refunding of these amounts to the petitioner from his salary, same is deducted, within four weeks of the date on which such determination is made.

(c) In case it is found that the Petitioner is governed by the old pension scheme necessary directions shall be issued by Respondent No.3, as the case may be, to open GPF accounts in the name of the Petitioner found eligible for same, within four weeks of the date on which his eligibility is determined.

(d) The Petitioner to appear before the Respondent No.3-Education Officer, as the case may be, on 01/08/2022.

4. Writ Petition stands disposed of accordingly.

[S. M. MODAK, J.]

[S.V. GANGAPURWALA,J.]