

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.2165 OF 2022**

Dattatray s/o Narshing Khatake ... Petitioners

Versus

State of Maharashtra Thr. Secretary School ... Respondents
Education and Sport Dept. and Ors.

Mr. Arvind Ambetkar a/w Mr. Deepak Pote, Advocate for the Petitioners.
Ms. P.N. Diwan, AGP for Respondent – State.

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : 30th SEPTEMBER 2022

PC. :

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

2. Learned counsel for the Petitioners relies upon the judgment delivered by this Court dated 1st October 2021 in the Writ Petition No. 4748 of 2019 with connected matters and the judgment and Order dated 11th April 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 Petitioners to the Respondent No.4 - Deputy Director of

Education, as the case may be, for taking appropriate decision depending upon the outcome of verification and the facts governing the case of the Petitioners.

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

(a) Respondent No.4 – Deputy Director of Education, as the case may be, is directed to decide case of the Petitioners 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.4 – Deputy Director of Education, as the case may be, that the Petitioners is governed by old pension scheme, the Respondent No.4, as the case may be, shall issue necessary directions to not deduct any amount from the salary payable to the Petitioners 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 petitioners 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 Petitioners is governed by the old pension scheme necessary directions shall be

issued by Respondent No.4, as the case may be, to open GPF accounts in the name of the Petitioners found eligible for same, within four weeks of the date on which his eligibility is determined.

(d) The Petitioners to appear before the Respondent No.4- Deputy Director of Education, as the case may be, on 17th October 2022.

4. Writ Petition stands disposed of accordingly.

(MADHAV J. JAMDAR, J)

(S.V. GANGAPURWALA, J)