

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

WRIT PETITION NO.9702 OF 2021

Vanita Rajendra Bhadule

...Petitioner

Vs.

State of Maharashtra & Ors.

...Respondents

Ms. Manish Jagtap i/b J. Shekhar & Co. for the Petitioner.

Mr. N. C. Walimbe, Assistant Government Pleader for Respondent Nos.1 to 5-State.

**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.**

DATED : 8 DECEMBER 2022.

P. C. :

Heard.

2. The Petitioner's services were converted from part-time teacher to full-time teacher with effect from 18/9/2006. The Petitioner was initially appointed on 18/8/1998 and the Petitioner superannuated on 30/11/2022.

3. In this backdrop, the claim of the Petitioner is for grant of retirement benefit including old pension scheme. Reliance is placed on the judgment of this Court in *Renuka Chandrabhan Umredkar vs. State of Maharashtra & Ors. Writ Petition No.3696/2021 decided on 7/9/2021* particularly paragraph No.13.

4. It is claimed that part-time services of the Petitioner is to be considered and included while counting the qualifying services for the purpose of grant of benefits under old pension scheme.

5. While countering the aforesaid submission, learned Assistant Government Pleader would seriously urge that initial appointment of the Petitioner i.e. 20/7/1998 was on contract basis and not approved by the Respondent- Authorities, as such according to him the benefits of old pension scheme cannot be extended to the Petitioner.

6. We have appreciated the aforesaid rival submissions. In the judgment of this Court delivered in the matter of *Renuka Chandrabhan Umredkar (cited supra)* in paragraph No.13 this Court had made following observations:

"13. The Division Bench of this Court after adverting to various judgments of this Court has held that the services of the employee of the Educational Institution is to be counted from the first date of appointment irrespective of whether it is on a part time or full time post. If such appointment is prior to 1st November, 2005, then the old pension scheme would be made applicable to such employee. This Court considered that the Government Resolution dated 31st October, 2005 which provides in Clause 4 that the employees who are to be recruited on or after 1st November, 2005 in the services of the recognized and aided educational institutions, the new pension scheme i.e. DCPS is made applicable."

7. From the observations therein it is to be inferred that the Petitioner, who is employed in the Education institute is seeking counting

of services of the Petitioner for the purpose of pension scheme from the date of her initial appointment i.e. 20/7/1998. The said issue is already answered by this Court by interpreting the provisions in favour of the Petitioner. However, what can be noticed is whether the initial services of the Petitioner were approved or not needs to be looked into by the Competent Authority.

8. In this backdrop, we direct Respondent to decide the claim of the Petitioner for entitlement to retirement benefits keeping in mind the observations of this Court in *Renuka Chandrabhan Umredkar (cited supra)*. Let the petition be treated as representation before the said authority. Appropriate decision be taken in any case by 31/3/2023. Petitioner to appear before the said Authority on 3/1/2023.

9. The petition stands disposed of.

(SHARMILA U. DESHMUKH, J.)

(NITIN W. SAMBRE, J.)