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Uday S. Jagtap

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

WRIT PETITION NO. 13078 OF 2022

Uddhav S/o Tanaji Shedage .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

**ALONG WITH
WRIT PETITION NO. 13101 OF 2022**

Suresh S/o Dattu Pol .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

**ALONG WITH
WRIT PETITION NO. 13080 OF 2022**

Sadashiv S/o Shankar Khot .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

**ALONG WITH
WRIT PETITION NO. 13079 OF 2022**

Suresh S/o Bhagwan Jadhav .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

**ALONG WITH
WRIT PETITION NO. 13081 OF 2022**

Yadav S/o Balkrushna Sonawane .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

.....
Mr. Arvind G. Ambetkar for the petitioner/s
Ms. P.N. Diwan, AGP for the respondent – State
.....

**CORAM : S.V. GANGAPURWALA &
S.G. DIGE, JJ.**

DATED : 18th NOVEMBER, 2022.

P.C.

1. Petitioners claim to have been appointed on 100% grant-in-aid post as a part time “Shikshan Sevak/Assistant Teacher” prior to 01.11.2005, subsequently they are appointed as full time “Assistant Teacher” on aided post. The petitioners claim applicability of the old pension scheme.
2. Learned Counsel for the petitioners 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 petitioners to the respondent no.3 – 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 petitions are, therefore, partly allowed and following directions are issued :-

(a) Respondent no.3 – Deputy Director of Education 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.3 – Deputy Director of Education that the petitioners are governed by old pension scheme, the respondent no.3, as the case may be, shall issue necessary directions not to 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 their 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 are governed by the old pension scheme, necessary directions shall be issued by respondent no.3 – Deputy Director of Education to open GPF accounts in the name of the petitioners found eligible for same, within four weeks of the date on which their eligibility is determined.

(d) The petitioners to appear before the respondent no.3 – Deputy Director of Education, as the case may be, on 07.12.2022.

4. Writ Petitions stand disposed of accordingly.

(S.G. DIGE, J.)

(S.V. GANGAPURWALA, J.)