

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

WRIT PETITION NO. 2342 OF 2020

Smt. Ranjana Rangrao Mane

(Nee Ranjana Sadashiv Patil)

... Petitioner

Versus

The State of Maharashtra and Ors.

... Respondents

Mr. Prashant Bhavake, for the Petitioner.

Mrs. S. S. Bhende, AGP, for Respondent Nos. 1 to 4.

Mr. Utkarsh S. Desai, for Respondent Nos. 5 and 6.

CORAM : A. S. CHANDURKAR AND G.A. SANAP, J.J.

DATE : 18th APRIL, 2022.

P.C. :

Rule.

2 Rule made returnable forthwith.

3 Heard learned Counsel for the parties.

4 The petitioner was appointed as on 16th October, 2000 as a part time Assistant Teacher. From 4th January, 2007 onwards she was granted full time work load. The petitioner superannuated on 31st May, 2018 after which her pension proposal was forwarded to

the Education Officer (Secondary). By the impugned Order dated 24th December, 2018, the proposal for grant of pensionary benefits has been returned to the Head Master on the ground that the question as to whether the petitioner would be governed by the old pension scheme or the new pension scheme applicable from 1st November, 2005 was pending in the High Court. Being aggrieved the said communication has been challenged in the Writ Petition.

5 The learned Counsel for the petitioner submits that though initially the appointment of the petitioner from 16th October, 2000 was as part time Assistant Teacher, the service rendered from that day is required to be taken into consideration and the petitioner would be governed by the old pension scheme which came into force prior to 1st November, 2005. The school in question was receiving 100% grant-in-aid prior to that date and, therefore, in view of the decision of the Division Bench of this Court in **Purushottam Harishchandra Shirsekar and Anr. Vs. State of Maharashtra and Ors.**¹, the case of the petitioner stands covered. The petitioner would be entitled to receive pensionary benefits under the old pension scheme.

6 Learned Assistant Government Pleader for respondent Nos. 1 to 4 submits that the proposal was returned to the Head Master for the

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reason that the issue with regard to applicability of the relevant pension scheme was pending. Now that issue has been decided and hence, the proposal could be re-considered.

7 Learned Counsel for respondent Nos. 5 and 6 submits that the school has been receiving 100% grant-in-aid from 25th October, 1996 and therefore, case of the petitioner would be governed by the old pension scheme. We find that the only reason for returning the proposal for grant of pensionary benefits is that the issue with regard to applicability of the appropriate pension scheme was pending in this Court. That issue has now been decided and it has been held that the service of an employee has to be counted from the first date of appointment irrespective of whether it is as a part time employee or a full time employee. If such appointment is prior to 1st November, 2005 then the old pension scheme would be made applicable to the employee. In the light of such view as taken in **Purushottam Harishchandra Shirsekar (supra)**, it would be now necessary for the Education Officer (Secondary) to re-consider the proposal dated 18th August, 2018 seeking release of pensionary benefits to the Petitioner.

8 In view of aforesaid, the Writ Petition is disposed of by directing the Respondent Nos. 5 and 6 to re-submit the proposal seeking release of pensionary benefits in favour of the Petitioner. If such proposal

accordingly submitted, the Education Officer (Secondary) shall take a decision of the same in the light of the observations made herein above, within a period of six weeks from the date of receipt of such proposal. The proposal be considered in accordance with law and the decision be taken accordingly and communicated to the Petitioner.

9 Rule is made absolute in the aforesaid terms. No costs.

[G.A. SANAP, J.]

[A. S. CHANDURKAR, J.]

REKHA
PRAKASH
PATIL

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Rekha Patil