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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4513 OF 2021

Narayan Purushottam Gaidhani ... Petitioner
Versus
State of Maharashtra & Ors. ... Respondents

Ms. Devyani Kulkarni for the Petitioner.
Mrs. S.S.Bhende AGP for Respondent Nos.1 to 4.

**CORAM : S. V. GANGAPURWALA &
S. M. MODAK, JJ.**

DATED : 29TH JULY 2022

P.C. :

1. The learned Counsel for the Petitioner submits that the Petitioner was appointed as part time teacher on 100% grant-in-aid post on 05/06/1995. The Petitioner was appointed as full time teacher 100% grant-in-aid from 15th June 2007. The Petitioner on attaining age of super-annuation, retired on 30th April 2018. The learned Counsel further submits that since 5th June 1995 the Petitioner was in continuous service. According to the learned counsel part time service rendered by the Petitioner on 100% grant-in-aid is required to be counted for benefit of old pension scheme.
2. The issue does not appear to be res-integra.
3. This Court in Writ Petition No.8990 of 2012 with connected Writ Petitions under the order dated 11th April 2022 relying upon earlier judgment of this Court has observed that part time service rendered by an

employee on 100% grant-in-aid is to be considered.

4. For the reasons recorded in the judgment dated 11/11/2022 under Writ Petition No.8990 of 2012 with connected Writ Petitions we follow the same course and pass similar order :-

5. The Petition is, therefore, partly allowed and following directions are issued.

6. Respondent No.2 – The Director of Education or Respondent No.3 - Deputy Director of Education, as the case may be, are directed to decide the 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.

7. If it is so found by Respondent No.2 – The Director of Education or Respondent No.3 -Deputy Director of Education, as the case may be, that the Petitioner is governed by old pension scheme, Respondent No.2 – The Director of Education or Respondent No.3 -Deputy Director of Education, 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 those amounts to the Petitioner from whose salary, same is deducted, within four weeks of the date on which such determination is made.

8. In case it is found that the Petitioner is governed by the old pension scheme necessary directions shall be issued by Respondent No.2 – The

Director of Education or Respondent No.3 -Deputy Director of Education, 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 the eligibility is determined.

9. The Petitioner to appear before Respondent No.2 – The Director of Education or Respondent No.3 -Deputy Director of Respondent, as the case may be.

10. As per grievance of the Petitioner the amount towards DCPS, the Petitioner may file necessary representation with the Authority which the Authority will consider at its own merits.

11. The Writ Petition is disposed of. No order as to costs.

(S. M. MODAK, J.)

(S. V. GANGAPURWALA, J.)