

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

WRIT PETITION NO. 7939 OF 2022

Satish Sambhaji Bhosale And Ors ...Petitioners
Versus
The State Of Maharashtra and Ors ...Respondents

Mr. Abhishek P. Deshmukh a/w Mr. Deepak Pote for the
Petitioners.
Mr.A.P. Vanarse AGP for the State- Respondent Nos. 1 to 3.

**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, J.J.**

DATED : 6th OCTOBER, 2022

P.C. :-

1. The petitioners are appointed by the respondent No.3 as non-teaching staff. They are Driver and Peon in the employment of the respondent No.3 University. They have been appointed initially as temporary appointees. Their services were continued from time to time. They were regularised and confirmed. The petitioners did not suppress the fact that at the time of the appointment they were overage, yet, all such deficiencies were condoned in their case, as they belong to the Backward Class and deprived sections of the Society. It is in these circumstances, that having put in blemish-less service, they were entitled to draw the pension after they have retired. Both of them have retired. They are senior citizens. When the proposal of their pensions have been forwarded that it is for the first time that the objection has been raised that the appointments are not in terms of the procedure prescribed or that the candidates were overage.

2. On the earlier occasion, we called upon the Joint Director, Higher Education, Pune Region, Pune to take a decision as to how the petitioners are disentitled to pensionary benefits. The Joint Director, Higher Education has now placed on record a communication and in which she fairly states that the petitioner No.1 and petitioner No.2 have been appointed by the Pune University, although they did not qualify in terms of the requirement of age. Yet, this is a peculiar case, when petitioner No.1 belongs to a Scheduled Caste (namely Hindu Matang) and petitioner No.2 is a Hindu Teli. There was a specific Government Resolution which empowered condoning the requirement of age and in cases of over age candidates, who have put in otherwise meritorious and blemish-less services. That requirement can be dispensed with and pensionary benefits can be released. The Joint Director has taken a decision in terms of the Government Resolution dated 18th March, 2011 and has forwarded the proposal dated 7th June, 2011 and 17th June, 2011. Thus both candidates have been held to be entitled to draw pension after the deficiency in their initial appointment is condoned.

3. It is further contended that the services of the petitioners were approved and confirmed. They were granted benefits of higher pay. The pay fixation was done. The pension proposal is rejected on the ground that at the time of appointment of the petitioners, they were over age.

4. We have heard learned AGP.

5. Petitioner No. 1 was appointed on 01/07/1991 and Petitioner No. 2 was appointed on 05/05/1982. Both the Petitioners attained the age of superannuation and have retired from services. Till they were in employment, no objections were raised to their employment.

6. It would be too late in day now to raise objection of the Petitioners being over age at the time of their appointments. The same would be against equity. It will also be unfair now to deny the benefits to the Petitioners on the ground that at the time of their appointments, the Petitioners were over age. Petitioners have rendered services of almost 19 to 20 years.

7. In light of that, the Respondents may not withhold pensions of the Petitioners only on the ground that on the date of the appointments of the Petitioners, they were over age. Respondents shall process the pension proposal of the Petitioners in accordance with law and confirmed that Petitioners have complied with all other conditions except the age. We make it clear that the pension proposal of the Petitioners shall not stalled or withheld only on the ground that Petitioners at the time of their initial appointment, were over age.

8. The Writ Petition is disposed of. No costs.

(R.N.LADDHA, J.)

(S.V. GANGAPURWALA, J.)