

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10172 OF 2022

Raju Daniel Shinde

... Petitioner

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Satyajeet Anil Rajeshirke, Advocate for the Petitioner.

Mr. S.B. Kalel, AGP a/w Ms. S.S. Bhende, AGP for the Respondent - State.

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : 29th AUGUST 2022

PC. :

1. Heard the learned counsel for the respective parties.
2. The Petitioner claims to have been appointed as part-time teacher on 2nd September 2002. Subsequently, he is upgraded as full-time teacher on 12th December 2005. The Petitioner seeks benefit of old pension scheme.
3. The said issue has been decided by this Court in its earlier judgment. Reference can be had to the order dated 11th April 2022 in Writ Petition No.8990 of 2021.

4. In view of this, we follow the same course. The Petition is therefore, partly allowed and following directions are issued.

5. The Deputy Director of Education, is 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 the law laid down by this Court in its various judgments including the judgments in the case of *Nilesh s/o Namdev Gurav Vs. The State of Maharashtra and Ors.*¹ in the case of *Deshmukh Dilipkumar Bhagwan and Ors. Vs. State of Maharashtra*² and also in the case of *Smt. Darshana wd/o Adikrao Gaikwad Vs. State of Maharashtra and Ors.*³ decided on 30th April 2019 and 9th July 2018 respectively.

6. If it is so found by the Deputy Director of Education that the Petitioner is governed by old pension scheme, the 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

1 Writ Petition No.4748 of 2019

2 2019 (3) Mh.L.J.903

3 Writ Petition No.5421 of 2017 (Bombay Bench)

or NPS, and shall also issue necessary directions for refund of these amounts to the Petitioner from whose salary, same are deducted, within four weeks from the date on which such determination is made.

7. In case, it is found that the Petitioner is governed by the old pension scheme, necessary directions shall be issued by the Deputy Director of Education for grant of pension as per the said scheme. Parties shall thereafter take necessary steps.

8. The impugned order is quashed and set aside.

9. The Petitioner shall appear before the Deputy Director of Education on 22nd September 2022.

10. Writ Petition is disposed of accordingly.

(MADHAV J. JAMDAR, J)

(S.V. GANGAPURWALA, J)