

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.433 OF 2019

Pramanand Markand Damahe

..VS..

**The State of Mah., thr.its Chief Secretary, General Administrative Department,
Mantralaya, Mumbai and ors**

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri G.K.Kshirsagar, Counsel for the Petitioner.
Mrs.K.R.Deshpande, Assistant Government Pleader for the State.

CORAM : A.S.CHANDURKAR & URMILA JOSHI-PHALKE, JJ.

DATED : JUNE 23, 2022

1. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for the State.
2. Issue notice to the respondents.
3. The learned Assistant Government Pleader waives service of notice for the State.
4. In this writ petition, the petitioner seek a declaration that in view of the provisions of the Maharashtra Civil Services (Pension) Rules, 1982, his services to be governed by the Old Pension Scheme and he is entitled to service benefits according to the said Scheme. In view of the fact that the aforesaid issue was referred to a Larger Bench, the adjudication of similar writ petitions was deferred. By the judgment dated 30.4.2019, the Full Bench has answered the reference and in paragraph No.37 while answering question No.2, it has been held that as under:

"37. Under these circumstances, we answer the Reference as under :-

Question No.2 :

The employees who were appointed prior to 1.11.2005 in aided recognized primary, secondary schools as well as colleges of

education which were receiving less than 100% grant-in-aid as on 1.11.2005 would be governed by the DCP scheme."

5. The learned counsel for the petitioner fairly submits that the Management started receiving 100% grant-in-aid after 1.11.2005. In view of this position, it is clear that the petitioner would be governed by defined Contributory Pension Scheme which has come into force from 1.11.2005.

6. While disposing of the writ petition in aforesaid terms, it is also observed that this adjudication would be subject to the challenge that is pending before the Honourable Supreme Court against the judgment of the Full Bench. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

!! BrWankhede !!

BHUSHAN
RANA
WANKHEDE

Digitally signed
by BHUSHAN
RANA
WANKHEDE

Date:
2022.07.02
15:26:36 +0530