

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) NO. 4338/2022

Rajesh s/o Anant Tumsare ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4347/2022

Sanjay s/o Govindrao Fusey ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4342/2022

Smt. Vaishali Sadanand Tayde ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4346/2022

Nityanand s/o Krishnaji Khandait ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4356/2022

Rajesh s/o Bhiwaraj Lanjewar ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4343/2022

Prashant s/o Vasantrao Bhure ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4344/2022

Punywardhan s/o Abhiman Gondane ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4359/2022

Ghanshyam s/o Jagannath Warudkar ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4345/2022

Shailesh s/o Yeshwantrao Thote ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4354/2022

Prabal s/o Ravindranath Sarkar ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4353/2022

Smt. Shubhangi Kiran Malewar..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4340/2022

Srinivasulu s/o Satyanarayan Gangisetty ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4358/2022

Smt. Prerna Prakash Satpute ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4341/2022

Maroti s/o Bondanna Appanwar ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4351/2022

Hemant s/o Nivruttinath Mandekar ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4352/2022

Naresh s/o Ram Tammewar ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4348/2022

Dr. Rajesh Dattatraya Gadewar ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4349/2022

Rajesh s/o Pundalik Mohurle ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4355/2022

Sanjay s/o Vasantao Chavan ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4350/2022

Vinodkumar s/o Parasram Tembhurne ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4339/2022

Sanjay s/o Bhimrao Kale ..VS.. The State of Maharashtra and ors.
 WITH

WRIT PETITION (WP) NO. 4357/2022

Sanjay s/o Krushnaji Donode ..VS.. The State of Maharashtra and ors.

Office Notes, Office Memoranda of
 Coram, appearances, Court's Orders
 or directions and Registrar's order

Court's or Judge's Order

Shri A.G. Ambetkar, Advocate for the petitioners in all Wps.
 Mrs. K.S. Joshi, Incharge Government Pleader for respondent nos. 1 to 5 in WP
 Nos. 4338/2022, 4356/2022, 4343/2022, 4345/2022 and 4354/2022
 Shri D.P. Thakare, Additional Government Pleader for respondent nos. 1 to 5 in WP
 Nos. 4347/2022, 4353/2022, 4340/2022, 4358/2022 and 4341/2022
 Miss. Nivedita P. Mehta, Assistant Government Pleader for respondent nos. 1 to 5
 in WP Nos. 4351/2022, 4342/2022, 4344/2022 and 4352/2022
 Ms. Kalyani R. Deshpande, Assistant Government Pleader for respondent nos. 1 to
 5 in WP Nos. 4348/2022, 4349/2022, 4359/2022 and 4355/2022
 Shri Neeraj R. Patil, Assistant Government Pleader for respondent nos. 1 to 5 in
 WP Nos. 4346/2022, 4350/2022, 4339/2022 and 4357/2022

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, J.J.

DATED : 29/07/2022

Each petitioner claims to have been appointed on an unaided post as full time Jr. College 'Teacher' prior to 01/11/2005. Subsequently each petitioner is appointed as full time 'Teacher' on an aided post. The petitioners claim a declaration as regards applicability of the old pension scheme to receive such benefits.

2. Learned Counsel for the petitioners relies upon the judgment delivered by this Court at Principal Seat dated 01/10/2021 in the Writ Petition No. 4748 of 2019 (*Nilesh s/o Namdev Gurav and ors. Vs. The State of Maharashtra and ors.*) with connected matters and the judgment and order dated 11/04/2022 in Writ Petition No. 8990 of 2021 (*Smt. Manasi Sudhir Mane Vs. The State of Maharashtra and ors.*) with connected writ petitions.

3. In light of the above and for the reasons recorded in the aforesaid judgments, we are inclined to pass a similar order as follows:-

(i) The case of each petitioner is relegated to the Respondent No. 3 – Deputy Director of Education for taking appropriate decision depending upon the outcome of verification and the facts governing the case of each petitioner.

(ii) Respondent No.3 – Deputy Director of Education is directed to decide the case of each 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 referred to above.

(iii) If it is so found by the Deputy Director of Education that the petitioner(s) is/are governed by old pension scheme, he shall issue necessary directions to not deduct any amount from the salary payable to such 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 these amounts to the petitioner(s) from the salary if the same is deducted, within four weeks of the date on which such determination is made.

(iv) In case it is found that the petitioner(s) is/are governed by the old pension scheme necessary directions shall be issued by the Deputy Director of Education to open GPF account in the name of the respective petitioners within four weeks of the date on which his/her eligibility is determined.

(v) The petitioners to appear before the Respondent No.3 - Deputy Director of Education on 22/08/2022.

4. The writ petitions stand disposed of accordingly. No costs.

JUDGE

JUDGE

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MAHADEV
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