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

WRIT PETITION NO.2065 OF 2021

Dr.Babar Ali Khan, aged about 60
years, occupation – service, r/o
HVPMS Staff Quarter, Amravati, district
Amravati. **Petitioner.**

:: V E R S U S ::

1. The State of Maharashtra, through its
Principal Secretary, Higher and
Technical Education Department,
Mantralaya, Mumbai – 32.

2. The Joint Director of Higher Education,
Amravati Division, Amravati.

3. Director of Sports & Youth Services,
Government of Maharashtra, Pune.

4. Degree College of Physical Education,
Amravati, thr.its Principal, Taluka and
District Amravati. **Respondents.**

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Shri A.I.Sheikh, Advocate for the Petitioner.

Shri D.P.Thakare, Additional Government Pleader for the
Respondent Nos.1 to 3.

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

DATE : **27/7/2022**

ORAL JUDGMENT (Per : A.S.Chandurkar, J.)

1. Heard Shri A.I.Sheikh, learned Advocate for the
petitioner and Shri D.P.Thakare, learned Additional Government
Pleader for the respondent Nos.1 to 3. **Rule.** Rule made returnable
forthwith. Heard finally by consent of learned counsel for the

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parties.

2. The petitioner was appointed as Full Time Lecturer at the respondent No.4 – College. His appointment was approved by the respondent No.2 – the Joint Director of Higher Education. On attaining the age of superannuation, the petitioner sought grant of pensionary benefits. By the communication dated 27.7.2020, the Service Book of the petitioner was returned by the respondent No.2 holding him ineligible to receive pensionary benefits. In this background, the petitioner has filed the present writ petition.

3. Prayer clause Nos.(a) and (b) of the writ petition read as under:

"(a) quash and set aside the impugned order dated 27.07.20 issued by the respondent no.2 Joint Director of Higher Education, Amravati Division, Amravati (Annexure-O) being it illegal;

(b) declare that the petitioner is entitle for the grant of pension as granted to similarly situated lecturer (Mr. Subhashchand Sharma-Annexure-S) and further direct the respondent No.2-Joint Director of Higher Education, Amravati Division, Amravati to sanction and release the pension in favour of petitioner within a stipulated period;

4. In the affidavit-in-reply filed by the respondent Nos.1

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and 2, it has been stated in paragraph Nos.7 and 8 as under:

*7. I say and submit that, during the pendency of the writ petition, the respondent No.2 had submitted the proposal to grant permission for considering the pension of the petitioner by communication dated 11.04.2022. In view of said proposal the Government had granted the permission to release the pension benefits to the petitioner. The copy of communication of respondent No.2 dated 11.04.2022 and Government communication dated 20.05.2022 are placed herewith as **Annexure R-7 & R-8.***

*8. I say and submit that, the proposal of pension was called from the Principal of Degree college of Physical Education, Amravati and it was submitted by communication dated 15.07.2022. The respondent No.2 in view of permission of the Government submitted the pension case to the Accountant General, Nagpur-II for its sanction. Accordingly, the claim of the petitioner is complied with and thereby the present writ petition is liable to be disposed of in view of satisfaction of the claim of the petitioner as per the prayer made in the instant writ petition. The copy of submission of pension case of the petitioner to A.G. Nagpur-II in satisfaction of the claim of the petitioner of dated 19.07.2022 is placed here with as **Annexure R-9.***

5. In view of the aforesaid, it is clear that the impugned communication dated 27.7.2020 would not now survive. It is

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accordingly set aside by, by allowing prayer clause No.(a). Since the State Government has granted permission to release the pensionary benefits of the petitioner, prayer clause No.(b) stands satisfied. The statements made in paragraph No.8 of the reply are accepted and the pension case of the petitioner shall be expeditiously processed and the pensionary benefits be released in favour of the petitioner accordingly.

6. Rule is made absolute in the aforesaid terms with no order as to costs.

(URMILA JOSHI-PHALKE, J.) (A.S.CHANDURKAR, J.)

!! BrWankhede !!

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