

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

WRIT PETITION NO. 5256 of 2021

Prashant Mahadeorao Mankar and another.

vs.

The State of Maharashtra through its Secretary, Department of Finance, Mumbai 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 Ram D. Karode, Advocate for petitioners.

Shri D. P. Thakre, Additional Government Pleader for respondent nos. 1 to 3.

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

DATE :- SEPTEMBER 26, 2022

Each petitioner claims to have been appointed on an unaided post as full time Assistant Teacher prior to 01/11/2005. Subsequently the petitioners are brought on the post of full time Teacher on an aided post from 08/11/2007. 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-Education Officer (Secondary) for taking appropriate decision depending upon the outcome of verification and the facts governing the case of each

petitioner.

(ii) Respondent No.3-Education Officer (Secondary) 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 Education Officer (Secondary) 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 Education Officer (Secondary) 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-Education Officer (Secondary) on 07.10.2022.

(vi) The right of the petitioners would be determined as per the decision of the Full Bench subject to the same being affirmed, reversed or modified before the Hon'ble Supreme Court, meaning thereby, the

mandamus issued by this Court today would automatically stand modified depending upon the view finally taken by the Hon'ble Supreme Court.

4. The writ petition stands disposed of accordingly. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

Andurkar..