

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

WRIT PETITION NO.3584/2022

Ramrao S/o Mansingh Pawar,
aged about 60 Yrs., Occ. Nil,
R/o Mahsul Colony, Ward No.1,
Selu Road, Malegaon, Tq. Malegaon,
Dist. Washim.

... Petitioner

- Versus -

1. Deputy Director (Education),
Nagpur Region Nagpur, Bal Bharti
Building, Near Getwell Hospital,
Dhantoli, Nagpur, Tq. and Dist.
Nagpur.

2. Education Officer (Secondary),
Zilla Parishad, Nagpur Zilla
Parishad Compound, Civil Lines,
Nagpur.

3. Panchshil Vidyalankar Shikshan
Sanstha, Washim (Akola),
(Regd. No.236F327) through its
Secretary, Off/at Rekhatai Rashtriya
Vidyalaya, Akola Naka, Washim,
Tq. and Dist. Washim.

4. Babu Gunwantrao Rashtriya Vidyalaya,
Jamgadth through its Headmaster at
Jamgadth, Tq. Katol, Dist. Nagpur.

... Respondents

Mr. Jemini B. Kasat, Advocate for the Petitioner.
Mr. K.L. Dharmadhikari, Additional Government Pleader for
Respondent Nos.1 and 2.
Mr. V.K. Paliwal, Advocate for Respondent Nos.3 and 4.

**CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.
DATE : 22.9.2022**

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. It is an admitted fact that there is no departmental enquiry, as contemplated under Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, held against the petitioner. That means there is no question of the petitioner having been found to be guilty of grave misconduct or negligence. It would then follow that the case of the petitioner

would not be covered by any of the clauses of rule 27 of the Maharashtra Civil Services Pension Rules. Resultantly, there is no provision of law which would enable respondent Nos.3 and 4 from stopping payment of pension to the petitioner. In fact, learned counsel for respondent Nos.3 and 4 graciously concedes that this is a case wherein the petitioner should get the pension. He on the other hand, supports the demand made by the petitioner by stating that for that purpose, respondent Nos.3 and 4 as part of the management must have a copy of the proposal and must know whether pension proposal has been correctly prepared by the petitioner or not.

3. We are of the view that the correctness or otherwise of the pension proposal has already been thoroughly examined by the Education Officer and his enquiry has led to discovery of few deficiencies which are detailed in communication dated 14.1.2022 sent to respondent Nos.3 and 4. All that which has remained to be done in this case for respondent Nos.3 and 4 is to

remove the deficiencies indicated by the Education Officer in communication dated 14.1.2022 and which must be done by respondent Nos.3 and 4. For removal of these deficiencies, respondent Nos.3 and 4 would not require copy of the proposal nor would require to reexamine the proposal with a view to find out if there are any further deficiencies in the proposal as if respondent Nos.3 and 4 are the appellate authorities of the Education Officer.

4. As regards the issue of recovery of alleged loss from the petitioner and its demand raised upon the petitioner by respondent Nos.3 and 4, we find that even such an attempt cannot be made by respondent Nos.3 and 4 after retirement of the petitioner. Therefore, the communications made in this regard cannot sustain themselves in the scrutiny of law.

5. In the result, the petition is allowed in terms of prayer clauses A, B and C which read as follows:-

“A. Order to process the pension case pending with the respondent no.2 Education Officer (Secondary), Zilla Parishad, Nagpur forthwith and grant regular pension to the petitioner and the arrears of pension along with interest.

B. Quash and set aside the communications dated 17/6/2019 at Annexure-E and dated 1/9/2019 at Annexure-F issued by the respondent no.3 Panchshil Vidyalkar Shikshan Sanstha, Washim (Akola).

C. Direct the respondent no.3 Panchshil Vidyalkar Shikshan Sanstha, Washim (Akola) and the Headmaster of the respondent no.4 Babu Gunwantrao Rashtriya Vidyalaya to comply with the deficiencies in the pension case of the petitioner pending with the respondent no.2 Education Officer (Secondary) Zilla Parishad, Nagpur forthwith.”

6. Compliance with the above directions be made within eight weeks from the date of the order.

7. Rule is made absolute in the above terms. No costs.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)