

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

WRIT PETITION (WP) NO. 644/2021

Sau. Lajwanti Shraddhanand Chawla,
Age 61 years,
Occ. Retired Associate Professor
R/o. "Ashirwad", Near M.S.E.B. Office,
Swastik Nagar, Badnera Road,
Amravati, Tq. & Dist. Amravati.

..... PETITIONER

// VERSUS //

1. State of Maharashtra
Through its Secretary of Higher and
Technical Education, Mantralaya, Mumbai.
2. Joint Director, Higher Education,
Amravati Division, V.M.V. Premises,
Amravati, Tq. & Dist. Amravati.
3. Degree College of Physical Education
Amravati through its Principal
Hanuman Nagar, Amravati,
Tq. and Dist. Amravati

.... RESPONDENT(S)

Shri Pravin S. Patil, Advocate for the petitioner
Shri Neeraj Patil, AGP for respondent nos. 1 and 2/State
Shri A.M. Sudame, Advocate for respondent no. 3

CORAM : A.S. CHANDURKAR AND SMT. M.S. JAWALKAR, J.J.

DATED : 22/03/2022

ORAL JUDGMENT : (PER:- A. S. CHANDURKAR, J.)

Rule. Rule made returnable forthwith. Heard the learned
counsel for the parties.

2 The petitioner came to be appointed as a Lecturer at the Decree College of Physical Education, Amravati run by Shri Hanuman Vyayam Prasarak Mandal, Amravati on 01.11.1987. The petitioner's services were duly approved on 02.01.1998 after verifying her eligibility. The petitioner discharged duties at the said College till 30.06.2003. She was thereafter transferred to another Physical Education College at Chikhaldara run by the same Management. She served there from 01.07.2003 to 30.06.2007. Thereafter on 01.07.2007 the petitioner was again transferred to the respondent no. 3 – College and she attained the age of superannuation on 30.06.2019. The petitioner has been denied pensionary benefits by the Joint Director of Higher Education by the order dated 27.07.2020 on the ground that the petitioner had rendered service for some years in a College that was not receiving grant-in-aid. That order is the subject matter of challenge in this writ petition.

3. On 11.02.2022 after hearing the learned Counsel for the parties the following order was passed:-

“The petitioner came to be appointed on the post of Lecturer on 01/11/1987. After rendering services she superannuated on 30/6/2019. The disputed question pertains to her entitlement to pensionary benefits which have been denied pursuant to the communication dated 27/07/2020. In the said communication reference is made to the Government Resolution dated 29/06/2009 which states that since the

grants were received by the concerned college only from 2009-2010, the petitioner would not be entitled for pensionary benefits.

2. We find that the aspect of release of grant is not related to the prayer for grant of pensionary benefits. On the contrary we find that this Court in Writ Petition No.13166/2017 (Shri Maruti Dattatray Patil vs. The state of Maharashtra and ors.) on 03/10/2018 has considered the effect of Government Resolution dated 27/06/2013 by which pensionary benefits were granted to those employees who were appointed between 23/10/1992 to 03/04/2000. In the present case the petitioner has been appointed even prior to 1992. At page 62 of the records the petitioner has specifically averred that various employees as similarly situated have been granted such pensionary benefits.

3. The learned Assistant Government Pleader to make a statement as to whether the case of the petitioner stands covered by the judgment in Writ Petition No.13166/2017 which has been subsequently followed by this Court in Writ Petition No. 2068/2019 on 29/07/2019. Incidentally we may state that Special Leave Petition against this judgment has been dismissed by the Honourable Supreme Court.

Stand over 21/01/2022.”

4. Pursuant thereto the respondent nos. 1 and 2 have filed an additional affidavit and in paragraph 2 thereof it is stated as under:-

“2. It is submitted that, as per Ground-F of the petition, following members amongst teaching staff on non-grant-in-aid course till 2009 and after 2009 on grant-in-aid course till their retirement were in continued service i.e. non-grant and grant-in-aid course together with same

college of Degree College of Physical Education, Amravati, therefore, their such service was treated for pensionary benefits:-

<i>Sr. No.</i>	<i>Name of Lecturer</i>	<i>Date of appointment</i>	<i>Date of retirement</i>
<i>1</i>	<i>Shri K.S. Pandawal</i>	<i>01.12.1984</i>	<i>31.03.2013</i>
<i>2</i>	<i>Shri U.C. Thakur</i>	<i>31.12.1984</i>	<i>31.01.2013</i>
<i>3</i>	<i>Shri J.N. Godse</i>	<i>01.12.1984</i>	<i>30.04.2017</i>
<i>4</i>	<i>Dr. K.S. Khandwe</i>	<i>04.10.1985</i>	<i>30.08.2018</i>
<i>5</i>	<i>Dr. V.M. Koleshwar</i>	<i>04.10.1985</i>	<i>31.08.2018</i>
<i>6</i>	<i>Let M.D. Kurwale</i>	<i>01.11.1987</i>	<i>28.02.2011”</i>

5. It can thus be seen that similarly situated employees as like the petitioner have been held entitled to receive pensionary benefits despite the fact that they had also rendered service for some period in the College run by the same Management that was not receiving grant-in-aid. We also find that similarly situated Lecturers had approached this Court in Writ Petition No. 2068/2019 (*Rajesh Vasantrao Pande Vs. State of Maharashtra and others*) and Writ Petition No. 7375/2019 (*Sunil Pundlikrao Joshi Vs. State of Maharashtra and others*). After considering the judgment delivered in Writ Petition No. 13166/2017 (*Shri Maruti Dattatraya Patil Vs. The State of Maharashtra and ors.*) at the Principal Seat, this Court had held such similarly situated Lecturers entitled to pensionary benefits. We do not find any reason to deny similar benefits to the petitioner. It has not been demonstrated that by rendering service for some period in a College not receiving grant-in-aid would dis-entitle

such employee to pensionary benefits.

6. We therefore find that the impugned order dated 27.07.2020 is unsustainable. Following the earlier orders passed by this Court in the writ petitions referred to hereinabove, the impugned order is set aside. It is held that the petitioner is entitled to receive pensionary benefits by considering the service rendered by her from 01.11.1987 to 30.06.2019 as per the provisions of the Maharashtra Civil Services (Pension) Rules, 1982. The respondent no. 3 – College is directed to send a fresh proposal pertaining to the pensionary benefits of the petitioner within a period of four weeks from today. The respondent no. 2 - Joint Director of Higher Education within further period of four weeks shall consider the same in the light of the observations made in this judgment and thereafter grant such benefits to the petitioner within a further period of three months from the date of his decision.

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

(SMT. M.S.JAWALKAR, J.)

(A.S.CHANDURKAR, J.)

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