

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5000/2021

Kanhaiyyalal S/o Sonbaji Gajbhiye,
aged about 65 Yrs., Occ. Nil,
R/o Borgaon Bazar, Tah. Devri,
Dist. Gondia, now residing at Sawari,
Post Jawaharnagar, Tah-Dist. Bhandara. ... Petitioner

- Versus -

1. The Education Officer (Primary),
Zilla Parishad, Gondia.
2. Adarsh Shikshan Sanstha,
Sawari, Dist. Bhandara, through its
Secretary, At Sawari, Post Jawahar
Nagar, Dist. Bhandara.
3. Accountant General (II),
Account General's Office,
Nagpur. ... Respondents

Mr. A.C. Dharmadhikari, Advocate for the Petitioner.

Mr. A.D. Mohgaonkar, Advocate for respondent No.2.

Mr. N.S. Rao, Assistant Government Pleader for Respondent
No.3.

**CORAM : SUNIL B. SHUKRE AND
SMT. M.S. JAWALKAR, JJ.**

DATE : 2 MAY 2022

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

Heard Mr. Dharmadhikari, learned counsel for the petitioner, Mr. Mohgaonkar, learned counsel for respondent No.2 and Mr. Rao, learned Assistant Government Pleader for respondent No.3. Nobody appears for respondent No.1 though served.

2. Heard. **Rule.** Rule made returnable forthwith.
Heard finally by consent of the parties present before the Court.

3. While modifying the order of the School Tribunal, the learned Single Judge in his well written judgment delivered on 14th March 2022 in Writ Petition No.4369/2013 (Kanhaiyyalal Gajbhiye V/s. Bhartiya Jagruti Shikshan Sanstha and others) in

paragraph No.11 has modified the order of the School Tribunal in the following terms:-

“11.

The respondent No.3 - Education Officer (Primary), Zilla Parishad, Gondia, is directed to treat the petitioner as having been reinstated in service and superannuated on 30/06/2013. The prayer for grant of back wages is rejected. At the same time, the respondent No.3 is directed to take steps to ensure that the petitioner is given pensionary benefits and all terminal benefits by treating him as having been reinstated in service and superannuated on 30/06/2013 and to process the papers and disburse such benefits to him in accordance with law.”

4. The reply of respondent No.1 also shows that now respondent No.1 has realized the error committed by him while passing the impugned order wherein he has considered only 26 years of service rendered by the petitioner as qualifying service for calculating the pensionary benefits payable to the petitioner. In fact, as directed by the Single Judge in his judgment 14th March 2022 respondent No.1 ought to have taken into consideration the entire service of the petitioner as he has been directed to be

treated as having been reinstated in service and superannuated on 30th June 2013.

5. We, therefore, direct respondent No.1 to treat the entire service of the petitioner till date he retired on superannuation on 30th June 2013 as qualifying service for paying all pensionary benefits.

6. Arrears of the pension and other benefits be paid to the petitioner within eight weeks from the date of the judgment.

7. Petition is **disposed of** in the above terms. Rule is made absolute accordingly. No costs.

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

(SUNIL B. SHUKRE, J.)