

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

WRIT PETITION NO.8078 OF 2022

Kanta Budharam Sonwane, Assistant Teacher, Viday Niketan, Secondary & Higher
 Secondary School, Amgaon, Dist. Gondia

vs.

The State of Maharashtra, Thr. Secretary, Finance Dept. Mantralaya, 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 Ketan Pote, Advocate h/f Shri A. G. Ambetkar, Advocate for petitioner.
 Shri A. M. Deshpande, I/c Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND ANIL L. PANSARE, JJ.

DATED : December 15, 2022

P. C.

The petitioner who has been appointed on an unaided post as full time Assistant Teacher prior to 01/11/2005 claims a declaration as regards applicability of the old pension scheme to receive such benefits. 'The petitioner has retired from service.'

Added as per
 Court's order
 dt.22/12/2022

2. Learned Counsel for the petitioner 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 the petitioner is relegated to the Respondent No.3-Deputy Director of Education for taking appropriate decision depending upon the outcome of verification and the facts governing the case of the petitioner.

(ii) Respondent No.3-Deputy Director of Education is directed to decide the case of the 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 Deputy Director of Education that the petitioner is governed by old pension scheme, he shall issue necessary directions to not deduct any amount from the salary payable to the 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 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 is governed by the old pension scheme necessary directions shall be issued by the Deputy Director of Education to open GPF account in the name of the petitioner within four weeks of the date on which her eligibility is determined.

(v) The petitioner to appear before the Respondent No.3-Deputy Director of Education on 10/01/2023.

The writ petition stands disposed of accordingly. No costs.

(Anil L. Pansare, J.)

(A. S. Chandurkar, J.)