

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

WRIT PETITION NO.7831 OF 2022

Sunita Subrata Roy, Congress Nagar, Nagpur
vs.

The State of Maharashtra, Thr. Secretary, Finance Dept. Mantralaya, Mumbai and ors.
WITH

WRIT PETITION NO.7862 OF 2022

Vaijayantee Vikas Chandrayan, Shankar Nagpur, Nagpur
vs.

The State of Maharashtra, Thr. Secretary, Finance Dept. Mantralaya, Mumbai and ors.
WITH

WRIT PETITION NO.7845 OF 2022

Premlal s/o Ratiram Sonwane, Deori, Dist. Gondia
vs.

The State of Maharashtra, Thr. Secretary, Finance Dept. Mantralaya, Mumbai and ors.
WITH

WRIT PETITION NO.7824 OF 2022

Vijaykumar s/o Dhoman Khobragade, Post Pardi, Tq. Lakhandur, Dist. Bhandara
vs.

The State of Maharashtra, Thr. Secretary, Finance Dept. Mantralaya, Mumbai and ors.
WITH

WRIT PETITION NO.8079 OF 2022

Manjusha Sanjay Lobhare @ Manjusha Laxminarayan Malewar, Jaitala, Nagpur
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 petitioners.
Shri A. M. Deshpande, I/c Government Pleader for respondent Nos.1 to 5.

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

DATED : December 15, 2022

P. C.

Not on board. Taken on board.

Each petitioner claims to have been appointed on an unaided post as full time Assistant Teacher/Junior College Teacher prior to 01/11/2005. The petitioners claim a declaration as regards applicability of the old pension scheme to receive such benefits. All the petitioners have retired from service.

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 Deputy Director of Education/Education Officer (Secondary) as the case may be for taking appropriate decision depending upon the outcome of verification and the facts governing the case of each petitioner.

(ii) Deputy Director of Education/Education Officer (Secondary) as the case may be 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 Deputy Director of Education/Education Officer (Secondary) as the case may be 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 Deputy Director of Education/Education Officer (Secondary) as the case may be 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 Deputy Director of Education/Education Officer (Secondary) as the case may be on 10/01/2023.

The writ petitions stand disposed of accordingly. No costs.

(Anil L. Pansare, J.)

(A. S. Chandurkar, J.)

Asmita