

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 WRIT PETITION NO. 2596 OF 2022

Baban S/o. Gulabrao Koradkar
Age. 53 years, Occ. Service
as Assistant Teacher (Jr. College),
Presently, working with Janata
Vidyalaya and Jr. College,
Kashti, Tq. Shrigonda,
Dist. Ahmednagar.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Dy. Director of Education,
Pune Region, Pune.
4. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar,
Dist. Ahmednagar.
5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Ahmednagar,
Dist. Ahmednagar.

....Respondents.

WITH
WRIT PETITION NO. 576 OF 2023

Smt. Ujwala Sahebrao Kale
Age. 51 years, Occ. Service
as Assistant Teacher
Presently, working with Shri Bansibhau Mhaske
Secondary & Higher Secondary School,
Taluka Kazi, Tq. & Dist. Ahmednagar.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,

State of Maharashtra,
Mantralaya, Mumbai – 32.

2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Dy. Director of Education,
Pune Region, Pune.
4. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar,
Dist. Ahmednagar.
5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Ahmednagar,
Dist. Ahmednagar.

....Respondents.

WITH
WRIT PETITION NO. 2620 OF 2022

Pralhad S/o. Raghunath Waghmare,
Age. 57 years, Occ. Service
as Assistant Teacher (Jr. College)
presently working with Kulkana
Secondary & Higher Secondary School,
Kukana, Taluka Newasa,
Dist. Ahmednagar.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Dy. Director of Education,
Pune Region, Pune.
4. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar,
Dist. Ahmednagar.
5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Ahmednagar,
Dist. Ahmednagar.

....Respondents.

WITH
WRIT PETITION NO. 2618 OF 2022

Vinod S/o. Mahadev Nagarkar,
Age. 49 years, Occ. Service
as Assistant Teacher (Jr. College)
presently working with Bhausahab
Firodiya High School & Jr. College,
Ahmednagar, Dist. Ahmednagar.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Dy. Director of Education,
Pune Region, Pune.
4. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar,
Dist. Ahmednagar.
5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Ahmednagar,
Dist. Ahmednagar.

....Respondents.

WITH
WRIT PETITION NO. 2611 OF 2022

Sanjay S/o. Jijabarao Deshmukh,
Age. 55 years, Occ. Service
as Assistant Teacher (Secondary)
presently working with Madhyamik
Vidyalaya Hirapur, Tq. Chalisgaon,
Dist. Jalgaon.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.

2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Education Officer (Secondary),
Zilla Parishad, Jalgaon,
Dist. Jalgaon.
4. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Jalgaon,
Dist. Jalgaon.

....Respondents.

WITH
WRIT PETITION NO. 2598 OF 2022

Anil S/o. Komalsing Patil
Age. 46 years, Occ. Service
as Assistant Teacher (Secondary)
presently working with Madhyamik
Vidyalaya Hirapur, Tq. Chalisgaon,
Dist. Jalgaon.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Education Officer (Secondary),
Zilla Parishad, Jalgaon,
Dist. Jalgaon.
4. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Jalgaon,
Dist. Jalgaon.

....Respondents.

WITH
WRIT PETITION NO. 2603 OF 2022

Smt. Bharati Subhash Patil,
Age. 42 years, Occ. Service
as Junior Lecturer
presently working with Rashtriya Kanya
Shala (Jr. College), Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Dy. Director of Education,
Nashik Region, Nashik.
4. The Education Officer (Secondary),
Zilla Parishad, Jalgaon,
Dist. Jalgaon.
5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Jalgaon,
Dist. Jalgaon.

....Respondents.

WITH
WRIT PETITION NO. 2602 OF 2022

Rohidas Chudman Patil,
Age. 46 years, Occ. Service
as Assistant Teacher (Secondary)
presently working with Shri Chatrapati
Shivaji Madhyamik Vidyalaya,
Pohore, Tq. Chalisgaon,
Dist. Jalgaon.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar,
Dist. Jalgaon.
4. The Superintendent (Secondary),

Pay and Provident Fund Unit
Education Department, Jalgaon,
Dist. Jalgaon.

....Respondents.

WITH
WRIT PETITION NO. 2605 OF 2022

Jagnnath S/o. Sahebrao Nikam,
Age. 46 years, Occ. Service
as Junior Lecturer (Jr. College),
presently working with Madhyamik &
Uchha Madhyamik Vidyalaya,
Kalmadu, Tq. Chalisgaon, Dist. Jalgaon.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Dy. Director of Education,
Nashik Region, Nashik,
District Nashik.
4. The Education Officer (Secondary),
Zilla Parishad, Jalgaon,
Dist. Jalgaon.
5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Jalgaon,
Dist. Jalgaon.

....Respondents.

WITH
WRIT PETITION NO. 2622 OF 2022

Ramkrushna S/o. Shantaram Abhang,
Age. 46 years, Occ. Service
as Junior Lecturer,
presently working with Rashtriya Kanya
Shala (Jr. College), Chalisgaon
Tq. Chalisgaon, Dist. Jalgaon.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,

Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.

2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Dy. Director of Education,
Nashik Region, Nashik,
District Nashik.
4. The Education Officer (Secondary),
Zilla Parishad, Jalgaon,
Dist. Jalgaon.
5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Jalgaon,
Dist. Jalgaon.

....Respondents.

WITH
WRIT PETITION NO. 1652 OF 2023

Jitendra S/o. Purushottam Patil,
Age. 48 years, Occ. Service
as Librarian presently working
with Dhanaji Nana Vidyalaya Va
Uchha Madhyamik Vidyalaya,
Khiroda, Tq. Raver, Dist. Jalgaon.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Education Officer (Secondary),
Zilla Parishad, Jalgaon,
Dist. Jalgaon.
5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Jalgaon,
Dist. Jalgaon.

....Respondents.

WITH

WRIT PETITION NO. 2612 OF 2022

Satish S/o. Gorakh Duche,
Age. 51 years, Occ. Service
as Assistant Teacher presently
working with L.N. Hoshing Secondary
School, Jamkhed, Tq. Jamkhed,
Dist. Ahmednagar.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,
School Education and Sports Department,
Mantralaya, Mumbai – 32.
3. The Dy. Director of Education,
Pune Region, Pune.
4. The Education Officer (Secondary),
Zilla Parishad, Ahmednagar,
Dist. Ahmednagar.
5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Ahmednagar,
Dist. Ahmednagar.

....Respondents.

WITH

WRIT PETITION NO. 11268 OF 2022

Aqueela Bano Habiburraheman,
Age. 44 years, Occ. Service
as Assistant Teacher presently
working with Islahul Banat Urdu Girl's High
School & Jr. College of Science,
Aqsa Nagar, Vadjia Road, Dhule,
Tq. & Dist. Dhule.

....Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary,
Finance Department,
State of Maharashtra,
Mantralaya, Mumbai – 32.
2. The Secretary,

School Education and Sports Department,
Mantralaya, Mumbai – 32.

3. The Dy. Director of Education,
Nashik Region, Nashik.

4. The Education Officer (Secondary),
Zilla Parishad, Dhule,
Dist. Dhule.

5. The Superintendent (Secondary),
Pay and Provident Fund Unit
Education Department, Dhule,
Dist. Dhule.

....Respondents.

Advocate for Petitioners : Mr. Ambetkar Arvind G.
AGP for Respondents – State : Mrs. M.A. Deshpande

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 05 JULY 2023

ORAL JUDGMENT :

Heard the learned Advocate for the petitioners in all these petitions and learned AGP.

2. Rule. Rule made returnable forthwith. At the joint request, the matters are being decided finally at the admission stage.

3. The petitioners claim that they are governed by the Old Pension Scheme which was holding the field up to 31 October 2005 and not the Defined Contributory Pension Scheme (DCPS) which replace the Old Pension Scheme with effect from 01 November 2005.

4. The issue involved in all these petitions can simply be answered in favour of the petitioners by referring to the consistent view taken by this Court over number of years. Even the learned AGP

submits that the decision rendered by this Court in the matter of *Nilesh Namdev Gurav Versus The State of Maharashtra*, **2021 DGLS (Bom.) 1361**, has been challenged before the Supreme Court but there is no interim relief.

5. Suffice for the purpose to observe that all these petitioners, irrespective of their breaks in service from time to time, as is being argued by the learned AGP, were in the employment as on 31 October 2005, and have been absorbed in the substantive posts in the schools receiving 100 % grant-in-aid. Consequently, the issue is no more *res integra*, in view of the decision in *Anil Popat Chobhe Versus State of Maharashtra and others*, **2022 DGLS (Bom.) 2547**. We have considered all the submissions being made by the learned AGP before us even in these matters.

6. The upshot, since the petitioners, may be as part timers were appointed prior to the cut off date and have continued in a substantive post in the schools receiving 100 % grant-in-aid, as is expected by the Full Bench in the matter of *Deshmukh Dilipkumar Bhagwan and others Versus State of Maharashtra and others*, **2019 (4) Bom.C.R. 460**, their services would be governed by the Old Pension Scheme and not the DCPS.

7. One more aspect which is brought to our notice by the learned Advocate for the petitioner needs to be emphasized. The issue as to whether the employees appointed on honorarium like Shikshan

Sewaks, Krishi Sewaks and Gram Sewaks who had joined the post prior to 01 November 2005, and in the schools receiving 100 % grant-in-aid have been expressly declared to be governed by the Old Pension Scheme, by the Old Pension Scheme, by the Government Resolution dated 19 July 2011. This Government Resolution in our considered view puts everything at rest.

8. All the petitions are allowed. It is declared that the petitioners' services would be governed by the Old Pension Scheme and necessary consequences would follow as is indicated in Government Resolution dated 19 July 2011.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

spc/