

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6544 OF 2016

**KIRAN MOHAN AGRAWAL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**WITH
WRIT PETITION NO. 4149 OF 2018**

**VIJAY BAJIRAO PATIL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**WITH
WRIT PETITION NO. 4721 OF 2016**

**VIJAY DEORAV KHADKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**WITH
WRIT PETITION NO. 4889 OF 2023**

**SANJEEV BABURAO JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**WITH
WRIT PETITION NO. 6571 OF 2016**

**MUNGLYA HURJI VALVI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Ms S. A. Dhumal (Tambat), Advocate for Petitioners

Mr. P K. Lakhotiya, AGP for Respondent – State

Mr. V. C. Patil, Advocate h/f Mr. U. B. Bondar, Advocate for Respondent Nos. 3, 6 and 9 in WP/6544/2016 and for Respondent Nos. 3 to 5 in WP/4889/2023

Ms Vaishali Patil-Jadhav, Advocate for Respondent Nos. 5, 8 and 11 in WP/6544/2016

Mr. P S. Patil, Advocate for Respondent Nos. 3 to 5 in WP/6571/2016

Mr. V. G. Deshmukh, Advocate h/f Mr. S. S. Tope, Advocate for Respondent Nos. 3 to 5 in WP/4149/2018 and WP/4721/2016

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRADE, JJ.**

DATE : 04.09.2023

PER COURT :-

1. The appearance of Advocate Shri S. S. Tope is discharged since he has quit from the panel of the Zilla Parishad, Jalna.
2. Leave to add the Deputy Director of Education, Aurangabad Division, Aurangabad, as a Respondent in all these matters, forthwith.
3. The learned AGP caused his appearance on behalf of the added Respondent.
4. The Petitioners rely upon a common order dated 11.04.2022 passed by this Court at the Principal Seat in Writ Petition

No.8990 of 2021, more particularly, the directions of the Court that the cases of these Petitioners be referred to the Deputy Director of Education for scrutiny and verification as regards their dates of appointment and their eligibility for the old pension scheme in the light of the Government Resolution dated 31.10.2005.

5. The learned Advocates for the Respondents submit that the same directions be made applicable in these cases.

6. For the sake of brevity, we are reproducing the directions issued by the said Court in paragraph numbers 11 to 14, as under:-

“11. Respondent No.3 or Deputy Director of Respondent No.4, as the case may be, are directed to decide case of each of the Petitioners regarding applicability of the old pension scheme as per Maharashtra Civil Services (Pension) Rules, 1982 and Maharashtra Civil Services (Commutation of Pension) Rules 1984 and General Provident Fund Scheme by keeping in view law laid down by this Court in its various judgments including the judgments referred to in the body of the judgment.

12. If it is so found by Respondent No.3 or Deputy Director of Respondent No.4, as the case may be, that the Petitioners are governed by old pension scheme, the Respondent No.3 or Respondent No.4, as the case may be, shall issue necessary directions to not deduct any amount from the salary payable to the Petitioners 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 those petitioners from whose salary, same are deducted, within four weeks of the date on which such determination is made.

13. In case it is found that the Petitioners are governed by the old pension scheme necessary directions shall be issued by Respondent No.3 or Deputy Director of Respondent No.4, as the case may be, to open GPF accounts in the names of the Petitioners found eligible for same, within four weeks of the date on which their eligibility is determined.

14. Each of the Petitioners to appear before the Respondent No.3 or Deputy Director of Respondent No.4, as the case may be, on 18th April, 2022.”

7. In view of the above, all these **Petitions are disposed off** with the following directions:-

- [a] The impugned order directing the deduction towards Defined Contribution Pension Scheme [DCPS], shall be kept in abeyance.
- [b] The Deputy Director of Education, Aurangabad Division, Aurangabad, shall issue notice to each of these Petitioners within 15 days from today and allot them particular dates and time to cause their appearance along with their records.
- [c] On the date of hearing, the Deputy Director of Education, Aurangabad, would consider the records produced by the Petitioners, if any, and conduct a verification exercise as regards their exact dates of appointment and their eligibility in the light of the Government Resolution dated 31.10.2005.
- [d] Let this exercise be completed within sixty [60] days from the date of appearance of the parties.

- [e] After the verification exercise is completed, those who are held eligible for the old pension scheme, shall be communicated in writing, and in case, there are any deductions made towards the DCPS, the said deductions shall be returned/re-deposited in their salary account.
- [f] In the case of those who are found to be ineligible, individual reasoned order shall be passed and the same shall be conveyed to the concerned Petitioners within 15 days of drawing such conclusion.
- [g] The aggrieved parties would be at liberty to avail of the remedies as may be statutorily permissible.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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