

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 WRIT PETITION NO.6237 OF 2023

LAHANU MARUTI UMAP
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. L.H. Kawale h/f. Ms. Wagh Deepali D.
AGP for the respondent – State : Mr. A.S. Shinde
Advocate for the respondent no. 3 : Mr. S.B. Munde
...

**CORAM : MANGESH S. PATIL &
S.G. CHAPALGAONKAR, JJ.**

DATE : 13 JUNE 2023

PC :

Heard the learned advocate for the petitioner and the learned AGP who appears for the respondents no. 1 and 2 and Mr. S.B. Munde who appears for the respondent no. 3.

2. The petitioner is claiming that his services would be governed by the old pension scheme and not by the Defined Contributory Pension Scheme (DCPS) / National Pension Scheme (NPS) under the provisions of the Maharashtra Civil Services (Pension) Rules, 1982, the Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and the General Provident Fund Scheme.

3. The petitioner had applied for the post of Attendant Class - D from the Ex-Serviceman category in the recruitment process initiated by the respondent no. 3 in the year 2005. He faced interview on 21-05-2005 and the final selection list was published by the respondent no. 3 on 23-10-2005. The petitioner appeared at serial number 4. The appointment order was issued on 03-03-2006.

4. The thrust of the learned advocate for the petitioner is on the fact that there is distinction between 'recruitment' and 'appointment'. The distinction has been expressly noted by this Court vide order dated 28 April 2023 in the matter of ***Khillari Rajendra Eknath and others Vs. The State of Maharashtra and others*** (Writ Petition no. 2270 of 2021 - Original Side), subsequently followed by this Court in ***Riyaz Ahmad Sadroddin and others Vs. The State of Maharashtra and others*** (Review Application no. 50 of 2023 in Writ Petition no. 4946 of 2014) by the order dated 09-06-2023.

5. In similar set of facts, the selection process in the present matter having reached at the fag end and even the select list was published prior to the cut off date of 01-11-2005. For the reasons mentioned in the above two matters even the petitioner's services would be governed by the old pension scheme and not by the DCPS.

6. The writ petition is allowed.

7. It is declared that the petitioner's services would be governed by the old pension scheme.

8. Needless to state that the respondent no. 3 would take appropriate steps in tune with such declaration.

[S. G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/