

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 WRIT PETITION NO.7115 OF 2022

PARVEEN BANO SHAIKH RAISODDIN GAYASODDIN
VERSUS
THE STATE OF MAHARASHTRA THROUGH IT'S SECRETARY AND
OTHERS

Mr.A.B.Girase, Advocate for the Petitioner.
Mr.V.M.Kagne, AGP for the Respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)

DATE : OCTOBER 11, 2023

PER COURT :

1. On 12.07.2022, we had passed the following order :-

"1. The petitioner has put forth prayer clauses (B) and (C), which read as under :-

“B) By way of appropriate writ order or direction in the like nature, this Hon’ble High Court may kindly direct the respondent authorities to grant benefit of family pension under old pension scheme and general provident fund scheme in favour of the petitioner.

C) Pending hearing and final disposal of this Writ Petition, this Hon’ble High Court may kindly direct the respondent authorities to grant benefit of family pension under old pension scheme and general provident fund scheme in favour of the petitioner.”

2. *The contention is that the temporary service put in by the petitioner prior to the cut-off date 01/11/2005, should be considered as joining service prior to the cut-off date.*

3. *Issue notice to the respondents, returnable on 19/07/2022. The learned A.G.P. waives service of notice on behalf of respondent Nos.1 to 4."*

2. There is no dispute that the Petitioner's deceased husband joined employment as a part-time teacher on 03.12.1999. He became a part time "Shikshan Sevak" on 13.06.2001 and continued untill 07.09.2006 on grant-in-aid basis. His appointment was approved by the Education Officer (Secondary), Zilla Parishad, Jalgaon for the period 13.06.2000 to 07.09.2006. He was appointed as a Full Time Shikshan Sevak on 08.09.2006 until 22.04.2007 on grant-in-aid basis. This appointment was also accorded approval. A permanent approval was accorded on 04.05.2007, w.e.f. 23.04.2007. He passed away on 10.12.2020. In these circumstances, the Petitioner has put forth her prayers as above.

3. The learned AGP relies upon the communications received

from the A.G.Office, Nagpur dated 23.07.2021 and 12.01.2022. In the first communication, the case of the Petitioner was directed to be re-considered. In the second communication, it was requested to expedite the action in the above matter and resubmit the pension proposal to his office alongwith concurrence from the Administrative Department as provided in Rule 4 and 7 of MCS (Pension) Rules, 1982.

4. We feel pained that the Education Officer (Secondary), Zilla Parishad, despite having received the communication dated 30.11.2021 from the Office of the A.G., Nagpur, has not initiated any steps. The Petitioner's husband passed away on 10.12.2020 and the family is without pension ever since. This is a fit case for imposing heavy costs on the Education Officer for causing grave hardship and manifest inconvenience to the Petitioner. The learned AGP prays for leniency.

5. The learned Advocate for the Petitioner relies upon the judgment delivered by the learned Full Bench of this Court in **Deshmukh Dilipkumar Bhagwan and others Vs. State of Maharashtra and Others [2019(3) Mh.L.J. 903]**, the judgment delivered by this

Court at the **Principal Seat dated 01.10.2021 in WP No.4748/2019** and group of cases **(Nilesh Namdeo Guvar and Others Vs The State of Maharashtra and Others)** and the judgment dated **11.04.2022** delivered by this Court at the **Principal Seat in WP No.8990/2021** and group of cases **(Smt.Manasi Sudhir Mane and Others Vs. the State of Maharashtra and Others)**.

6. Considering the above, **this Petition is partly allowed.** We direct Respondent No.4 to obey the directions of the A.G.Nagpur dated 30.11.2021, more specifically the last paragraph of the said letter and tender a fresh proposal of the Petitioner for pensionary benefits alongwith arrears, within 30 days from today. If the Petitioner is eligible for the arrears of pension alongwith interest in tune with the policy of the Government, it shall be paid to the Petitioner within a period of 45 days from the date of the passing of the order of the A.G.Nagpur with admissible interest. Since we have directed the Education Officer to forward the proposal within 30 days, the A.G.Nagpur shall pass an order on the proposal within 30 days from the receipt of the same.

7. On account of the laxity on the part of Respondent No.4, in ignoring the letter of the A.G.Nagpur dated 30.11.2021, we are imposing costs of Rs.10,000/-, which the Education Officer would deposit in this Court within 21 days, from his salary bank account. The learned Advocate for the Petitioner graciously submits that the amount be donated to the Advocate Associations' Bar Library, High Court, Aurangabad. Registry to transfer the amount accordingly.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)