

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1031 WRIT PETITION NO.10128 OF 2023

CHANDRAKANT MOHANRAV LIPANE

VERSUS

**THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS
WITH**

1099 WRIT PETITION NO.6253 OF 2023

**WITH WP/6269/2023 WITH WP/6271/2023 WITH WP/6217/2023
WITH WP/6226/2023 WITH WP/6210/2023 WITH WP/6218/2023
WITH WP/6230/2023 WITH WP/6261/2023 WITH WP/6228/2023
WITH WP/6216/2023 WITH WP/6229/2023 WITH WP/6219/2023
WITH WP/6260/2023 WITH WP/6248/2023 WITH WP/6254/2023
WITH WP/6227/2023**

BABAN SHRICHAND CHAVAN

VERSUS

THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

Smt.Asha D.Rakh h/f Mr.Shaikh Ashraf Patel, Advocate for the
Petitioners.

Mr.P.K.Lakhotiya, Mr.P.S.Patil, AGPs' for Respondent Nos. 1 and 2.

Mr.V.C.Patil h/f Mr.U.B.Bondar, Advocate for Respondent Nos. 3 to 5 in
WP Nos. 10128/2023, 6261/2023, 6254/2023, 6210/2023,
6216/2023, 6217/2023, 6218/2023, 6226/2023, 6229/2023,
6230/2023, 6269/2023, 6253/2023.

Mr. Rajesh Mewara, Advocate for Respondent Nos. 3 to 5 in WP Nos.
6260/2023, 6228/2023, 6271/2023, 6248/2023 and 6219/2023.

**(CORAM : RAVINDRA V. GHUGE AND
S.G.MEHARE, JJ.)**

DATE : SEPTEMBER 29, 2023

PER COURT :

1. Leave to add the Deputy Director of Education, Aurangabad Division as a Respondent, if not arrayed. Addition be carried out forthwith. The learned AGP causes an appearance on behalf of the added Respondent.

2. 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, for 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.

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

4. 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.”

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

- [a] The impugned order directing the deduction towards the 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.

(S.G.MEHARE, J.)

(RAVINDRA V. GHUGE, J.)