

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

WRIT PETITION NO.10493 OF 2023

**MAQSOOD AHMED KHAN NASEEB AND ANOTHER
VERSUS
STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS**

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Advocate for the Petitioners : Shri Solanke Shikrashna B.
AGP for Respondents 1 to 3/State : Shri A.V. Deshmukh
Advocate for Respondent 4 : Shri S.B. Munde
Advocate for Respondent 5 : Shri V.H. Solanke

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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 26th September, 2023

Per Court :-

1. The issue is as regards whether, the Petitioners would be entitled/ eligible for the old pension scheme benefits or newly introduced Defined Contributory Pension Scheme (DCPS) vide the Government Resolution dated 31.10.2005.

2. It is undisputed that the advertisement was published by Respondent No.4 on 30.07.2004. It is equally undisputed that the Petitioners were declared as selected in the selection list of February, 2005. Petitioner No.1 was appointed on 02.01.2006 and Petitioner No.2 was appointed on 29.12.2005.

3. The learned Advocates for the respective sides point out that the coordinate Bench of this Court has delivered the judgment on 09.06.2023 in Review Application No.50/2023 in Writ Petition No.4946/2024 (***Riyaz Ahmad Sadrodin and others vs. The State of Maharashtra and others***). In the said judgment, the Petitioners were identically placed and were included in the same select list of February, 2005, in which, the names of the present Petitioners are also set out. All these persons, therefore, belong to the same select list. By placing reliance upon the judgments dated 28.04.2023 delivered by this Court at the Principal Seat in ***Khilari Rajendra Eknath and others vs. The State of Maharashtra and others***, Writ Petition No.2270/2021 and in ***Shivaji Nagnath Lokare and others vs. State of Maharashtra and others, (2017) 5 Mh.L.J. 854*** as well as the view taken by the Honourable Supreme Court in ***Prafulla Kumar Swain etc. vs. Prakash Chandra Misra and others, 1993 SCC Supl. (3) 181***, the claims of the said Petitioners were sustained.

4. As these Petitioners belong to the same select list and were appointed in similar manner on 29.12.2005 and 02.01.2006, **this Writ Petition stands allowed** in terms of the conclusions drawn in ***Khilari Rajendra Eknath*** (supra) and ***Riyaz***

Ahmad Sadrodin (supra).

5. As a consequence to the above directions, the effective steps towards making the old pension scheme applicable to these Petitioners, shall be initiated by the competent authorities within 60 days from today.

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(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)