

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

15 WRIT PETITION NO.12124 OF 2022

YOGESH DATTU PATIL
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Ramesh I. Wakade.
AGP for Respondent/State : Mr. S. K. Tambe.
...

CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.

DATE : 23rd January, 2023.

Per Court :

1. The petitioner has put forth prayer clause 'B' as under:-

“B) It may kindly be held & declare that, petitioner will be governed by the Old Pension Scheme i. e. Maharashtra Civil Service Pension Rules 1982 as the petitioner has been appointed prior to 01.11.2005 and new pension scheme i. e. Defined Contribution Pension Scheme (DCPS) will not be applicable to the petitioner.”

2. It is conceded that the petitioner has approached this Court directly for invoking the Writ of Mandamus under Article 226 of the Constitution of India, without approaching any authority. The contention is that the petitioner was appointed as a Shikshan Sevak on part time basis vide appointment order dated 2nd July, 2005. The

Education Officer has approved his appointment. By continuing his approval, his service as an Assistant Teacher has also been approved. There is no dispute on this count. The Government Resolution dated 31st October, 2005 by which the Defined Contributory Pension Scheme has been introduced with effect from 1st November, 2005, is made applicable to all such candidates, who have been appointed on or after 1st November, 2005.

3. In view of the above, this petition is disposed off with liberty to the petitioner to approach the Education Officer (Secondary), respondent No.5. While making his representation, he may place on record all the relevant documents, which he desires to cite in support of his claim that he is entitled to the old pension scheme.

4. In the event of such representation being filed within 30 days from today, the concerned authority would endeavour to decide the same on its own merits by passing a reasoned order, within 60 days from the date of receipt of the representation. We make it clear that we have not expressed any view about the claim of the Petitioner.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]