

TRUSHA
TUSHAR
MOHITE

Digitally signed by
TRUSHA TUSHAR
MOHITE
Date: 2023.04.28
12:29:59 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12855 OF 2022

Ramchandra Raghunath Patil Petitioner

Vs.

Union of India an Ors. Respondents

Mr.Sanjeev Sawant a/w Mr.B.K.Barve, Mr.Sandeep Barve, Ms.Sonali Patil, Mr.Santosh Wagh i/b M/s.B.K.Barve and Co. for the Petitioner

Ms.Vaishali Choudhari for the Respondent (Union of India)

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : APRIL 27, 2023

P.C.

1. We have heard the learned Counsel for the Petitioner and the Respondents.

2. It appears that on the date, the Petitioner was appointed he was covered by the CPF Scheme. The petitioner is working prior to the circulars dated 13th October, 1982 and 1st May, 1987. The petitioner, after the Pension Scheme was introduced did not submit his option. According to this petitioner as the option was not submitted, deemed effect is to be given and he is to be considered under the Pension Scheme.

3. Reliance is placed on the judgment of the Division Bench of

this Court in Writ Petition No.1331 of 2017 (Amita Ajit Desai & Ors. Vs. Union of India & Ors.) dated 17th January, 2019.

4. The learned counsel for the Respondents/UoI does not dispute that the present petitioners are similarly situated as the petitioner in Writ Petition No. 1331 of 2017.

5. The learned Counsel for the Respondents further submits that the Petitioner is guilty of delay and laches. No explanation has been given for the delay. The Petitioner is the fence-sitter. It is only after this court passed order in Writ Petition No. 1331 of 2017 (Amita Ajit Desai & Ors. Vs. Union of India & Ors.) dated 17th January, 2019, thereafter the Petition is being filed.

6. It is submitted that the judgment and order of this Court in Writ Petition No. 1331 of 2017 is also confirmed by the Apex Court and the SLP filed against the said judgment was dismissed on 23rd August, 2019.

7. As the Petitioner is similarly situated as the Petitioner in Writ Petition No.1331 of 2017, certainly, we will follow the same course of action. Hence, we pass the following order:

- (i) It is held and declared that the Petitioner would be entitled to be governed by the Central Civil Services (Pension)

Scheme, 1972.

(ii) The Petitioner would be paid Pension from the month of June, 2023 onwards.

(iii) The arrears of Pension shall be paid within a period of six months. However, the arrears will not carry any interest.

(iv) Respondent employer is entitled to recover the employer's contribution towards CPF along with simple interest @ 8% p.a. thereon, from the arrears of pension that would be payable to the Petitioners.

(v) Writ Petition is accordingly disposed of.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)