

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

WRIT PETITION NO.14880 OF 2022

Dilip Rana Randive

Age : 59 Years, Occ. Retired,

R/at: 501, 501, Vedant Bhuvi S. No.95/6B/1C,

Ghule Wasti, Mahadevnagar, Manjari,

District Pune – 412307

.... Petitioner

Versus

1. State of Maharashtra

[Summons to be served on the Learned
Government Pleader appearing forth
State of Maharashtra under Order XXVII,
Rule 4, of the Code of Civil
Procedure, 1908]

2. The Accountant General,
State of Maharashtra

3. The Education Officer
(Secondary)
Pune Zilla Parishad, Pune

4. The Rayat Shikshan Sanstha,
Western Region, Aundh, Pune

.... Respondents

Mr.Rahul S.Kadam for the Petitioner

Mr.Milind Deshmukh for the Respondents no.4

Mr.N.C.Walimbe, Addl. G.P. a/w Mr.K.S.Thorat for the Respondents –
State

**CORAM: A.S.CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ.**

RESERVED ON: 28TH NOVEMBER 2023

PRONOUNCED ON: 6TH DECEMBER 2023

JUDGMENT (PER : FIRDOSH P. POONIWALLA, J) :

1. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.
2. By this petition, the Petitioner has challenged the Order dated 14th September 2022 passed by Respondent no.3 - wherein it has been held that the Petitioner is not entitled for the pension benefit under the Maharashtra Civil Services (Pension) Rules, 1982, on the ground that the initial service of the Petitioner was Part Time.
3. The Petitioner was initially appointed as a 'Part Time Librarian' at Shree Sant Muktabai Vidyalaya, Shelgaon, Taluka – Indapur, District – Pune, a school run by the Respondent no.4 Institution on 17th April, 1995. This appointment of the Petitioner was approved by the then Education Officer (Secondary), Zilla Parishad, Pune by an Order dated 28th July 1997.
4. Thereafter, on 25th April 2007, the Petitioner was transferred from the said Shree Sant Muktabai Vidyalaya to Sadhana Vidyalaya, Hadapsar by a transfer order dated 25th April 2007. The post of the Petitioner at Sadhana Vidyalaya was of a Full Time Librarian. On 9th October 2007, the then Education Officer approved the said transfer order dated 25th April 2007.
5. From his transfer to Sadhana Vidyalaya, on 25th April 2007, till his retirement on 30th April 2022, the Petitioner worked as a Full Time

Librarian. On 30th April 2022, the Petitioner retired due to superannuation.

6. Thus, the total Part Time service of the Petitioner from 17th April 1995 till his transfer as a Full Time Librarian on 25th April 2007 was twelve years and his service as a Full Time Librarian from 25th April 2007 till 30th April 2022 was fifteen years. It is the case of the Petitioner that, as per the Maharashtra Civil Services (Pension) Rules, 1982, for counting the services for pension benefit, half of the period of the Part Time service has to be treated as Full Time i.e. six years and Full Time service of fifteen years was also to be considered. Accordingly, the total service of the Petitioner for pension benefit is six years plus fifteen years i.e. twenty one years. It is also the case of the Petitioner that therefore he is clearly entitled to pension benefits as per the Maharashtra Civil Services (Pension) Rules, 1982.

7. Further, it is also the case of the Petitioner that, he being entitled for the said pension benefit, the Respondent no.4 - Education Institution rightly forwarded the proposal for grant of the said pension benefit to Respondent no.3.

8. By an Order dated 14th September 2022, Respondent no.3 held that the Petitioner was not entitled for the pension benefit under the Maharashtra Civil Services (Pension) Rules, 1982, on the ground that the initial service of the Petitioner was on a part time post.

9. The said reason given by Respondent no.3 cannot be sustained in the light of the settled law to the contrary. The settled position in law is that

the date of appointment on Part Time basis is required to be treated as the date of entry into service for the purpose of applicability of the pension scheme under the Maharashtra Civil Services (Pension) Rules, 1982, and that further, even in respect of part time employees, their part time services have to count towards qualifying service for pension, albeit only 50%. This settled position of law has been laid down in various judgments of this Court. However, in order not to burden this judgment, we would like to refer to the following judgments; (i) *Anil Popat Chobhe v. State of Maharashtra*¹ and (ii) *Pratibha Prakash Almast and Others vs. State of Maharashtra and Ors.*² which have been cited on behalf of the Petitioner, which uphold the aforesaid position in law.

10. In the aforesaid circumstances, and for the aforesaid reasons, the impugned Order dated 14th September 2022 is required to be set aside and necessary directions are required to be given to the Respondents.

11. Accordingly, we pass the following Orders:

- a. Order dated 14th September 2022 passed by Respondent no.3 is quashed and set aside.
- b. Respondent no.3 is ordered and directed to forward the pension proposal of the Petitioner to Respondent nos.1 and 2 for the grant of pension benefit under the Maharashtra Civil Services (Pension) Rules, 1982, within a period of three weeks from the date

1 (2022) SCC Online BOM 1726

2 (2023) SCC Online BOM 1262

of uploading of this Order.

- c. Respondent nos.1 and 2 are directed to determine the entitlement of the Petitioner to pensionary benefits by taking into account 50% of the total part time service rendered alongwith the entire full time service rendered by him and thereafter, grant the Petitioner pensionary benefits in accordance with law within a period of eight weeks from the date of receipt of the proposal.
- d. Rule is made absolute in the aforesaid terms.
- e. Writ Petition is disposed of.
- f. In the facts and circumstance of the case, there shall be no order as to costs.

(FIRDOSH P. POONIWALLA, J.)

(A.S.CHANDURKAR, J.)