

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1088 OF 2023

Surendra Punjabrao Mankawade,
aged about 58 years, Occ. Service,
R/o 203, Rajmayuri Palace, Sharda Chowk,
Old Subhedar Layout, Ayodhya Nagar,
Nagpur.

PETITIONER

.....VERSUS.....

1. Deputy Director of Education,
Nagpur Division, Nagpur.
2. Sevasadan Jr. College of Education,
North Ambazari Road, Zasi Rani Chowk,
Sitabuldi, Nagpur, through its Principal.
3. The Education Officer (Secondary),
Zilla Parishad, Nagpur.
Added as per Court's order dated 6/4/2023.

RESPONDENTS

Shri P.N. Shende, Advocate for the petitioner.
Ms S.S. Jachak, Assistant Government Pleader for respondent No.1/ State.
Shri K.V. Bhoskar, Advocate for respondent No.2.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : 14/6/2023

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned counsel for the parties.

2. By this Writ Petition, the petitioner seeks a direction that the service rendered by him as part time Physical Training Instructor to the extent of 50% and the subsequent service as full time Lecturer be taken into consideration for calculating the pensionary benefits.

3. After hearing the learned Counsel for the parties and perusing

the documents on record, we find that another employee from the same Institution namely Smt. Pratibha Suryakant Kale had preferred Writ Petition No. 2467/2021 in this Court which came to be decided on 3/10/2022. The said petitioner was similarly placed as the present petitioner. After referring to the decision of the Division Bench in *Writ Petition No. 5421/2017 (Smt. Darshana wd/o Adikrao Gaikwad Vs. State of Maharashtra and Ors.)* it was directed that 50% of the services rendered as part time Physical Training Instructor and full service rendered as full time Physical Training Instructor in that case ought to be considered for pensionary benefits. Since the petitioner is similarly situated as that of the petitioner in Writ Petition No. 2467/2021, we are inclined to issue similar directions.

4. Hence, for the reasons contained in the judgment in Writ Petition No. 2467/2021, the following order is passed :

ORDER

- i. The communication dated 24/1/2023 issued by the Education Officer (Secondary) is quashed and set-aside.
- ii. After computing 50% of the services rendered by the petitioner as part time Physical Training Instructor in petitioner No.2 - College and 100% service rendered as Full Time Lecturer, the petitioner would be entitled to the Old Pension Scheme benefits under the relevant rules. Respondent No.1 – Deputy Director of Education, Nagpur Division, Nagpur and respondent No.3 - Education Officer (Secondary), Nagpur are directed to calculate the pensionary benefits available to the petitioner within a period of one month after receipt of copy of this judgment. The petitioner shall be paid the entire arrears within a period of three months.
- iii. Rule is made absolute in the aforesaid terms with no order as

to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)

SUMIT