



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

WRIT PETITION NO. 1259 OF 2023

Ku. Pushpa Shankar Bansod @ (Smt. Pushpa Dilip Baviskar),
aged about 61 years, Occ. Retired,
R/o Radha Raman Colony, Plot No. 25126,
Dighori – Narsala besides Princes Lawns,
Nagpur.

PETITIONER

.....VERSUS.....

- 1] Chief Executive Officer,
Zilla Parishad, Nagpur.
- 2] Education Officer (Primary),
Zilla Parishad, Nagpur.
- 3] Block Education Officer,
Panchayat Samiti, Kamptee,
Tah. Kamptee, District – Nagpur.

RESPONDENTS

Shri S.D. Chande with Shri Raju Kadu, Counsel for the petitioner.
Shri C.V. Sawalkar, Counsel for the respondents.

CORAM : A. S. CHANDURKAR AND ABHAY J. MANTRI, JJ.

DATE : 2/11/2023

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

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

2] The petitioner came to be appointed as an Assistant Teacher at the School run by Zilla Parishad, Nagpur. Her appointment was dated 1/7/1982 and according to the respondents, the same was on a post reserved for the candidates from Nomadic Tribe. The petitioner on attaining the age of superannuation retired on 30/11/2020. She started receiving her pensionary benefits thereafter. However, with effect from June – 2022, the pensionary benefits were withdrawn. On 5/9/2022, the Block Education Officer issued a communication to the Education Officer,

Zilla Parishad, Nagpur stating therein that documents relating to the petitioner's initial appointment were not available with the said office. Subsequently, the Education Officer (Primary), Zilla Parishad, Amravati on 13/2/2023 also informed the Education Officer (Primary), Zilla Parishad, Nagpur that relevant documents pertaining to the petitioner's appointment were not available on record. On the ground that the petitioner failed to submit a validity certificate, the Block Education Officer directed the petitioner to submit the same so as to enable her to receive further pensionary benefits. Being aggrieved, the petitioner has challenged the action of withholding her pensionary benefits.

3] Heard the learned Counsel for the parties and perused the documents on record. It is not in dispute that during the entire career of the petitioner, the Zilla Parishad did not take any steps to obtain validity certificate from the petitioner. She was not placed on a supernumerary post during the said period. On the contrary, after her superannuation on 30/11/2020, she started receiving her pensionary benefits. In this backdrop, there cannot be any justification for withholding the petitioner's pensionary benefits from June – 2022 on the ground that the validity certificate was not furnished. It is not in dispute that no proceedings of disciplinary nature were initiated against the petitioner when she was in service. It would thus not be permissible now to withhold her pensionary benefits in absence of any power in that regard. We therefore find that this action on part of the Zilla Parishad is unwarranted.

4] For the aforesaid reasons, it is held that the Zilla Parishad is not justified in withholding the petitioner's pensionary benefits from June – 2022. Within a period of four weeks from today, the Zilla Parishad shall continue paying the petitioner her regular pension along with arrears from June – 2022.

5] Rule is made absolute in the aforesaid terms. No costs.

(ABHAY J. MANTRI, J.)

(A.S. CHANDURKAR, J.)

SUMIT