

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
WRIT PETITION NO.5292 OF 2022**

Dr.Ramesh Ramchandrarao
Kohad, aged about 61 years,
Occ.Service, Near New Arts
College, Wardha.

Petitioner

-Vs.-

1. The State of Maharashtra,
through its Principal Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai-32
- 2 The Director of Higher Education
Maharashtra State, Pune.
3. Joint Director of Higher
Education Nagpur Division,
Nagpur.
4. Rashtrasant Tukdoji Maharaj
Nagpur University, Nagpur
through its Registrar, Nagpur.
5. S.S.N.J. Mahavidyalaya, Deoli,
Dist. Wardha, through its
Principal.

Respondents

Ms. S.O.Ahmed, counsel for the petitioner.
Ms.K.S.Joshi, Addl.G.P for respondent 1 to 3.
Mr.S.M.Bhagde, counsel for respondent 4.

**CORAM : ROHIT B. DEO AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 6th APRIL, 2023

ORAL JUDGMENT (Per : Vrushali V. Joshi, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The petitioner has approached this Court in extraordinary jurisdiction seeking direction to the respondent 3 to release his pension and other retiral benefits as per the revised salary within stipulated period as he has retired from service on 31.01.2021.

4. The petitioner's pension case was forwarded by the Principal of the College. The respondent scrutinised the service book and other documents of the petitioner in the light of the government resolution dated 21.12.2019. During the scrutiny, it was revealed that the petitioner was earlier appointed in Scheduled Tribe category and thereafter, the entry of the petitioner as appointed in

Special Backward Class category is made in the service book of the petitioner. From the entries as made in the service book, it was inferred that the caste claim of the petitioner of belonging to Scheduled Tribe category invalidated by the concerned authority. In such a situation, the respondent 5-College ought to have accommodated the petitioner on supernumerary post for a period of 11 months as per the government resolution dated 21.12.2019. On 27.09.2021, the respondent informed the petitioner that it is not possible to decide the pension case of the petitioner in view of the government resolution dated 21.12.2019 and informed that on 15.06.2020, a Committee is appointed to take a decision in respect of candidates, who are accommodated on the supernumerary post as per the Government Resolution dated 19.12.2019.

5. There is a chequered history of litigation. Earlier the petitioner filed Writ Petition 2735 of 2019 before this

Court for consideration of the claim of petitioner for grant of benefit of Career Advancement Scheme (CAS). The Court allowed the petition by order dated 01.10.2019 and granted benefits of CAS in terms of Government Resolution dated 27.06.2013. As the order was not complied with by the respondent, the petitioner filed Contempt Petition 166 of 2020. After filing of the said petition, the respondent has complied with the order and therefore, the contempt petition was disposed of.

6. The petitioner addressed reminder letter to the respondent 3 requesting him to release the pension which has gone unheeded.

7. By the government resolution dated 14.12.2022, the government has taken a decision to grant retiral benefits to the candidates accommodated on supernumerary posts. As the petitioner had already retired, there is no question of transferring him to the supernumerary post. As per the government resolution,

the petitioner is entitled for the retiral benefits. Hence, in view of the government resolution dated 14.12.2022, the petition is allowed as per its prayer clause (A) which reads thus”

“Direct the respondent No.3 to release the pension and other retiral benefits of the petitioner to the petitioner as per revised salary within stipulated time period as he has been retired from services on 31/01/2021 in the interest of justice”.

7-A “The direction issued shall be complied by respondent 3 within six weeks from today.”

8. Rule is made absolute in the above terms. No order as to costs.

(MRS.VRUSHALI V. JOSHI, J)

(ROHIT B. DEO)