



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

WRIT PETITION NO.5778 of 2023

Smt. Mangal G. Khillare vs. State of Maharashtra and others.

With

WRIT PETITION NO.5772 of 2023

Gajanan Haribhau Sadar vs. State of Maharashtra and others.

With

WRIT PETITION NO.5784 of 2023

Smt. Sulochana Madhav Khodake vs. State of Maharashtra and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.G.Ambetkar, Advocate for petitioner in all writ petitions.
Shri H.D.Marathe, for respondent nos. 1 to 3 and 5 in all writ petitions.
Shri N. B. Patekar, Advocate for respondent no.6 in all writ petitions.

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

DATE :- 23rd OCTOBER, 2023

Each petitioner claims to have been appointed on an unaided post as full time Assistant Teacher' prior to 01.11.2005. Subsequently each petitioner is appointed as full time 'Teacher' on an aided post. The petitioners claim a declaration as regards applicability of the old pension scheme to receive such benefits.

2. Learned Counsel for the petitioners relies upon the judgment delivered by this Court at Principal Seat dated 01.10.2021 in the Writ Petition No. 4748 of 2019 (*Nilesh s/o Namdev Gurav and ors. Vs. The State of Maharashtra and ors.*) with connected matters and the judgment and order dated 11.04.2022 in Writ Petition No. 8990 of 2021(*Smt. Manasi Sudhir Mane Vs. The State of Maharashtra and ors.*) with connected writ petitions and the decision in *Prakash Arjun Rajeshirke and anr. vs. State of Maharashtra and anr. [2021 DGLS (Bomb.) 1742]*.

3. In light of the above and for the reasons recorded in the aforesaid judgments, we are inclined to pass a similar order as follows:-

(i) The case of each petitioner is relegated to the Respondent No. 4 – Education Officer (Primary) for taking appropriate decision depending upon the outcome of verification and the facts governing the case of each petitioner.

(ii) Respondent No.4–Education Officer (Primary) is directed to decide the case of each petitioner regarding applicability of the old pension scheme as per Maharashtra Civil Services (Pension) Rules, 1982 and Maharashtra Civil Services (Computation of Pensions) Rules-1984 and General Provident Fund Scheme by keeping in view law laid down by this Court in its various judgments referred to above.

(iii) If it is so found by the Deputy Director of Education that the petitioner(s) is/are governed by old pension scheme, he shall issue necessary directions to not deduct any amount from the salary payable to such petitioner governed by the old pension scheme for the purpose of its applying to the DCPS or NPS, and shall also issue necessary directions for refunding of these amounts to the petitioner(s) from the salary if the same is deducted, within four weeks of the date on which such determination is made.

(iv) In case it is found that the petitioner(s) is/are governed by the old pension scheme necessary directions shall be issued by the Deputy Director of Education to open GPF account in the name of the respective petitioners within four weeks of the date on which his/her eligibility is determined.

(v) The petitioners to appear before the Respondent No.4 – Education Officer (Primary) on 06.11.2023. The petitioners shall serve

a copy of this order on the Education Officer (Primary) prior to said date of appearance.

4. The writ petitions stand disposed of accordingly. No costs.

(ABHAY J. MANTRI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.