

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

WRIT PETITION NO.1629 OF 2012

- Petitioners** : 1. Shri Mir Aalam Baig Zabiulla Baig,
Aged about major,
R/o Gandhi Nagar, Darwha, Dist. Yavatmal.
2. Shri Zakir Husain Gulam Husain,
Aged about major,
R/o Qureshi Mohalla, Darwha, Dist. Yavatmal.
3. Shri Azharullah Khan Zafarulla Khan,
Aged about major,
R/o Near Railway Station, Darwha, Dist. Yavatmal
4. Shri Mithun Shankarrao Nimkar,
Aged about major,
R/o Bari Pura, Digras, Dist. Yavatmal.
5. Shri Kishor Gulabrao Giramkar,
Aged about major,
R/o Gandhi Nagar, Digras, Dist. Yavatmal.

– Versus –

- Respondents** : 1. The State of Maharashtra,
through its Secretary,
Department of Finance, Mantralaya, Mumbai – 32.
2. The Secretary, Department of Primary Education,
Mantralaya, Mumbai – 32.
3. Deputy Director of Education,
Amravati Division, Amravati, Tahsil and District
Amravati.

Mr. P.P. Thakare, Advocate for the Petitioners.

Mrs. K.R. Deshpande, A.G.P for the Respondents.

CORAM: **ROHIT B. DEO AND M.W. CHANDWANI, JJ.**

DATE : **5th JUNE, 2023.**

J U D G M E N T : (Per M.W. Chandwani, J.)

The petition seeks direction to the respondents to extend the benefits under the Maharashtra Civil Services (Pension) Rules, 1982 (*hereinafter referred to as 'Pension Rules of 1982' for short*), the Maharashtra Civil Services (Computation of Pensions) Rules, 1984 and the General Provident Fund Scheme to the petitioners.

02] The petitioners were appointed as 'Shikshan Sevak' in their respective schools before the cut off date i.e. 01/11/2005 mentioned in the Government Resolution dated 31/10/2005, whereby the new Defined Contributory Pension Scheme (DCPS) has been introduced by the Government of Maharashtra. The services of the petitioners were confirmed and they are working as permanent Assistant Teachers in their respective schools. It is claimed by the petitioners that since they were appointed in their respective schools prior to cut off date, they are to be governed by the Pension Rules of 1982 as mentioned in the Government Resolution dated 31/10/2005, but the respondents are deducting the amount under DCPS, which is against the Government Resolution dated 31/10/2005.

03] It is not in dispute that the respective schools, where the petitioners are working as Assistant Teachers, are not 100% aided schools prior to 01/11/2005. In this scenario, we do not go into the matrix of the case in detail. Suffice to say that the case in hand is covered by the decision of the Full Bench in a case of *Deshmukh Dilipkumar Bhagwan and others vs. State of Maharashtra and others – 2019(3) Mh.L.J. 903*, wherein the Full Bench, after considering the relevant decisions of this Court, has concluded that the employees, who are working in a school, which is not admissible to 100% grant-in-aid schools prior to 01/11/2005, are not entitled to the benefits of old scheme of pension provided under the Pension Rules of 1982.

04] Since, the petitioners were appointed by their respective schools, which were not admissible to 100% grant-in-aid, at that relevant time i.e. prior to 01/11/2005, the petitioners are not entitled to take benefit of pension under the Pension Rules of 1982 as mentioned in the Government Resolution dated 31/10/2005.

05] In that view of the matter, the petition fails. Rule is discharged with no order as to costs.

(M.W. CHANDWANI, J.)

(ROHIT B. DEO, J.)

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