

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

WRIT PETITION NO. 09 of 2023

Vilas Harichandra Doifode

vs.

The State of Maharashtra, through its Secretary, Finance Department, Mumbai 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.

Shri Amit Madiwale, Assistant Government Pleader for respondent nos.1 to 5.

CORAM :- A.S.CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE :- JANUARY 03, 2023.

The petitioner claims to have been appointed on 100% grant in aid post as a part time Jr. College 'Assistant Teacher' prior to 01/11/2005. Subsequently she is appointed as full time 'Teacher' on an aided post. The petitioner claims a declaration as regards applicability of the old pension scheme to receive such benefits.

2. Learned counsel for the petitioner 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.

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 the petitioner is relegated to the Respondent No. 3 – Deputy Director of Education for taking appropriate decision depending upon the outcome of

verification and the facts governing the case of the petitioner.

(ii) Respondent No.3 – Deputy Director of Education is directed to decide case of the 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 is governed by old pension scheme, he shall issue necessary directions to not deduct any amount from the salary payable to the 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 from her 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 is 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 petitioner within four weeks of the date on which his eligibility is determined.

(v) The petitioner to appear before the Respondent No.3 - Deputy Director of Education on **30.01.2023**.

4. Writ Petition stands disposed of accordingly. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)