

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

WRIT PETITION NO. 36 OF 2023

(Smt. Sujata Sitaramji Halmare @ Sujata Rajesh Gomase Vs. The State of Maharashtra & Ors.)

WITH WRIT PETITION NO. 37 OF 2023

(Jitendra s/o Namdeorao Hiwarkar Vs. The State of Maharashtra & Ors.)

WITH WRIT PETITION NO. 39 OF 2023

(Smt. Manjusha Arunrao Deshmukh @ Manjusha Khushalrao Wagh Vs. The State of Maharashtra & Ors.)

WITH WRIT PETITION NO. 38 OF 2023

(Smt. Manisha Manohar There @ Manisha Pralhad Pandharkar Vs. The State of Maharashtra & Ors.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Ketan D. Pote h/f Shri A.G. Ambetkar, Advocate for the petitioners.

Shri A.M. Deshpande, in-charge Government Pleader for the respondents/ State in
WP Nos. 36/2023 and 39/2023.

Ms. S.S. Jachak, Assistant Government Pleader for the respondents/ State in WP
Nos. 37/2023 and 38/2023.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : JANUARY 4, 2023

Writ Petition Nos. 38/2023 and 39/2023 are not on board. On mentioning, they are taken on board.

Each petitioner claim to have been appointed on their respective teaching post prior to 01/11/2005. The petitioners claim a declaration as regards applicability of the old pension scheme to receive admissible benefits on the ground that the respective Institution was receiving 100% grant-in-aid.

The learned Counsel for the petitioners rely upon the judgment delivered by this Court at Principal Seat dated 01/10/2021 in Writ Petition No. 4748/2019 (*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. 8990/2021 (*Smt. Manasi Sudhir Mane Vs. The State of Maharashtra and ors.*) with connected Writ Petitions.

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 Deputy Director of Education/ Education Officer (Secondary) as the case may be for taking

appropriate decision depending upon the outcome of verification and the facts governing the case of each petitioner.

(ii) The Deputy Director of Education/ Education Officer (Secondary) is directed to decide the case of each petitioner regarding applicability of the old pension scheme as per the Maharashtra Civil Services (Pension) Rules, 1982, the Maharashtra Civil Services (Computation of Pensions) Rules, 1984 and the General Provident Fund Scheme by keeping in view the 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/ Education Officer (Secondary) that the petitioner/s is/ are governed by the 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 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/ Education Officer (Secondary) to open GPF account in the name of the respective petitioners within four weeks from the date on which his/ her eligibility is determined.

(v) The petitioners to appear before the Deputy Director of Education/ concerned Education Officer (Secondary) on 30/1/2023 to enable consideration of the aforesaid.

The Writ Petitions stand disposed of accordingly. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

SUMIT