

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6477 OF 2022

Rupali Ramdas Pagar @ Rupali Yuvraj ...Petitioners
Nikam And Ors

Versus

State Of Maharashtra Thr Its Secretary ...Respondents
And Ors

WITH

WRIT PETITION NO. 6485 OF 2022

Santosh S/o Shivaji Pawar And Ors. ...Petitioners

Versus

State Of Maharashtra Through
Secretary, Finance Dept. And Ors ...Respondents

WITH

WRIT PETITION NO. 6484 OF 2022

Sarjerao s/o Krishnat Sutar And Ors ...Petitioners

Versus

State Of Maharashtra And Ors ...Respondent

WITH

WRIT PETITION NO. 6482 OF 2022

Manisha D/o Madhukar Gaikwad ...Petitioner

Versus

State Of Maharashtra Through Its
Secretary, Finance Dept. And OrsRespondents

WITH

WRIT PETITION NO. 6480 OF 2022

Shyam S/o Rajaram Kothawade ...Petitioner

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Assistant Teacher

Versus

State Of Maharashtra Through Its
Secretary, Finance Dept. And Ors .

...Respondents

WITH

WRIT PETITION NO. 6481 OF 2022

Dnyaneshwar Baban Darade

...Petitioner

Versus

State Of Maharashtra And Ors .

...Respondents

Mr. Govind Solanke for the Petitioners in all petitions.

Mr. M.V. Thorat a/w Mr. Avinash Bailmare for Respondent No.4 in
WP/4684/22 and for the Respondent No.5 in WP/6485/2022.

Mr. S.B. Kalel, AGP for Respondent/State in all petitions.

Mr. Danish Patel i/b Yoshesh Jayabhave for Respondent No.5 in
WP/6481/2022.

Mr. Abhijit Devkhile for Respondent No.4 in WP/6482/2022 and
WP/6485/2022.

Mr. Rohit Sakhadeo for Respondent No.5 in WP/6485/2022 and for
Respondent No.7 in WP/6481/2022.

Mr. Shantanu Patil i/b Mr. Abhijit Adagule for Respondent No.5 in
WP/6484/2022.

Mr. Subhash Gutte for Respondent No.4 in WP/6477/2022 and
Respondent No.5 in WP/6480/2022.

Mr. Rupesh Bobade for Respondent No.5 in WP/6482/2022.

**CORAM : NITIN JAMDAR AND
M.M.SATHAYE, JJ.**

DATE : 5 JANUARY 2024

P.C. :

. There are 6 petitions before us.

2. In Writ Petition No. 6477 of 2022, there are 4 Petitioners with the concerned Respondents being the State and School Board of Municipal Corporation, Nashik.

3. In Writ Petition No. 6485 of 2022, there are 8 Petitioners concerned with five Zilla Parishads i.e. Zilla Parishad Ahmednagar, Zilla Parishad Satara, Zilla Parishad Solapur, Zilla Parishad Nashik and Zilla Parishad Pune.

4. In Writ Petition No. 6480 of 2022, the Petitioners are 12 in number with the School Board at Nashik along with State as Respondents.

5. In Writ Petition No. 6481 of 2022, there is sole Petitioner with two Zilla Parishad i.e. Jalgaon and Nashik joined as Respondents along with State.

6. In Writ Petition No. 6482 of 2022, the sole Petitioner has joined concerned Zilla Parishad Ahmednagar and Solapur alongwith State as Respondents.

7. In Writ Petition No. 6484 of 2022, the Petitioners are 4 in number with two Authorities, i.e. Zilla Parishad Satara and Kolhapur

and School Board of Karad Municipal Council.

8. All these Petitioners, working under diverse School Boards and Zilla Parishad have been clubbed together in one petition. In this group of petition, the central question is regarding their entitlement to get benefit under the Maharashtra Civil Services (Pension) Rules, 1982, the Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and General Provident Fund Scheme. As per the Government Resolution issued by the State Government on 31 October 2005, for those who have been appointed in service after 01 November 2005, they would be governed by the Defined Contribution Pension Scheme and those who have been appointed prior to 31 October 2005, old pension scheme would apply.

9. Considering the diverse causes brought before us by several Petitioners as above, where different authorities are involved, it is not possible for us to individually examine cases of each of the petitions as various questions of facts are involved.

10. In Writ Petition Nos. 6477 of 2022 and 6480 of 2022, the contention of the Petitioners is that they were directed to be appointed under the orders of the Court dated 29 April 2005 in Writ Petition Nos. 9452 of 2004, 9412 of 2004 and 10312 of 2004 within a period of 8 weeks from the date of order, however their appointment came to be made post 31 October 2005 and therefore, they will have to be treated as having been appointed before 31

October 2005.

11. As regards other petitions are concerned, there is no specific decision on record either by the State Government or any of the local authority after examining the case of the individual Petitioners as to what should be their date of appointment.

12. As stated earlier, this exercise cannot be carried out in writ jurisdiction by this Court and considering the several authorities that are involved, we dispose of these Writ Petitions directing the local authorities which are party Respondents in this petition, to examine the case of each of the Petitioners and to pass a specific order deciding their date of appointment in context of the applicability of old pension scheme and Defined Contribution Pension Scheme.

13. Needless to state that if the Respondent/local authorities come to conclusion that the Petitioners' appointment are prior to 31 October 2005, then necessary benefits of old pension scheme be extended to such Petitioners. If not, order giving reasons be passed in case of each of the Petitioners.

14. As regards reliance on the orders of this Court is concerned, the Respondents local authorities will deal with the same as to whether they could construe the appointment of the Petitioners from the date of expiry of 8 weeks or actual date of appointment or advertisement. Again, if the local authorities come to the conclusion

that their appointment is to be taken as per the order of this Court, then proceed to extend the benefits of old pension scheme.

15. Let this exercise be carried out by each of the local authorities in respect of each of the Petitioners individually, within a period of three months.

16. Writ Petitions are accordingly disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)