

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE

WRIT PETITION NO. 10030 OF 2023

Dhananjay Nanaso Ghule and others. ... Petitioners.

V/s.

State of Maharashtra and others. ... Respondents.

Mr.B.G.Solanke for the Petitioner.

Mr.B.V.Samant, Addl.G.P. with Mr.MM.Pabale, AGP  
for Respondent Nos.1 to 3.

Mr.Abhijit Kulkarni with Mr.Gourav Shahane and Krushna  
Jaybhay for Respondent No.4.

SANJAY  
KASHINATH  
NANOSKAR

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SANJAY KASHINATH  
NANOSKAR

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

**DATE : 1 February 2024.**

**P.C. :**

The Petitioners are working with Respondent No.4-  
Municipal Corporation of Pune. They have filed this petition with  
the following prayer:

“(b) This Hon’ble Court may be pleased to issue an appropriate Writ thereby holding that, the petitioners are recruited prior to 1.11.2005 and therefore, they are entitled to get the benefits of old pension scheme i.e. The Maharashtra Civil Service (Pension) Rules 1982 and Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and General Provident Fund Scheme (GPF.) and for that purpose issue necessary orders;”

2. Under Government Resolution dated 31 October 2005, those who were appointed after 1 November 2005 would be governed by the Defined Contribution Pension System and those prior to the Government Resolution would be covered by the old Pension Scheme. It is also a legal position that even though the employees are appointed post 1 November 2005, if the recruitment process by advertisement under which they are so appointed is commenced prior to 1 November 2005 they will be governed by old Pension Scheme. However, for this purpose, the facts of each case will have to be examined.

3. The learned counsel for Respondent No.4 states that the Petitioners have not made any application or representation to Respondent No.4 and have directly filed this petition.

4. According to us, the Petitioners should have approached the Respondent- Corporation which would have examined the Petitioners' case before approaching this Court seeking a writ of mandamus. Be that as it may, the Petitioners will make a representation to Respondent No.4- Corporation in respect of their claim that they are governed by the old Pension Scheme and Respondent No.4 will examine the facts of each of the claims of the Petitioners and take a decision. If the Petitioners are so governed by the old Pension Scheme, Respondent No.4 will proceed to pass necessary orders. If the Petitioners are not so governed by the old

Pension Scheme, Respondent No.4 will pass a reasoned order stating the reasons for the same.

4. If the Petitioners make such representation within a period of four weeks, Respondent No.4 will take necessary decision within a period of eight weeks thereafter, subject to earlier time-bound directions and pressing duties.

5. Writ petition is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)