



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

WRIT PETITION NO. 3510 OF 2024

Uttam Seva Rathod
Age @ 58 years, Occ. Retired
R/o. Banjara Colony Pusad,
Tq. Pusad, Dist. Yavatmal

} .. **Petitioner**

Versus

- 1) The Education Officer (Secondary)
Zilla Parishad, Yavatmal,
Dist.Yavatmal.
- 2) Late Nura Naik Bahuddeshiya
Shikshan Sanstha, through its
Secretary / President, Sattarmal, Tq.
Pusad, Dist. Yavatmal.
- 3) The Headmaster,
Secondary School, Panhala,
Tq. Pusad, Dist. Yavatmal

} .. **Respondents**

Mr. S.M. Vaishnav, Advocate for Petitioner.
Mr. A.M. Kadukar, AGP for respondent No1.

CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.

DATED : JUNE 14, 2024

ORAL JUDGMENT (Per : Abhay J. Mantri, J.)

Rule. Rule is made returnable forthwith. Heard
finally, by the consent of the learned counsel appearing for the parties.

(2) The petitioner invoked writ jurisdiction to assail the communication dated 01/11/2023, issued by respondent No.1, whereby he returned the proposal for the grant of pensionary benefits to the petitioner.

(3) The petitioner's case is that on 20/06/2001, the petitioner was appointed to the post of Headmaster in the newly opened unaided respondent No.3 School. By communication/letter dated 09/06/2009, he was confirmed in service. In the academic year 2014-2015, respondent No.1 Education Officer (Secondary) granted approval for 20% grant-in-aid to respondent No.3 School. Then, vide letter dated 19/10/2015, respondent No.1 granted approval for 40% grant-in-aid and by letter dated 03/03/2016 granted approval for 60% grant-in-aid to the said School. The petitioner is superannuated on 30/06/2023.

(4) On 22/08/2023, the headmaster of the said School submitted a proposal to grant the petitioner's pensionary benefits. However, respondent No.1 returned the proposal vide communication dated 01/11/2023; hence, this petition.

(5) Learned counsel for the petitioner vehemently contended that the petitioner was appointed before 01/11/2005. His services were approved by respondent No.1. Therefore, the

communication of respondent No.1 for returning the proposal for grant of pensionary benefits to the petitioners, observing that the school lacks 100% grant-in-aid, is erroneous. Hence, he has submitted that the same is liable to be set aside. Alternatively, he submitted that the respondent had misinterpreted Rules 19 and 20 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 and failed to consider that the school was receiving 60% grant-in-aid. Therefore, he urged the petition to be allowed.

(6) As against this, the learned Assistant Government Pleader submitted that in view of the Judgment of the Full Bench of this Court, the petitioner is not entitled to a grant of pensionary benefits as the respondent No.3 School was not receiving 100% grant-in-aid. Therefore, he submitted that the petitioner is not entitled to the relief as prayed.

(7) We have considered the rival claims of the parties and perused the impugned communication and the record.

(8) At the outset, it appears that respondent No.1, by communication dated 01/11/2023, has not rejected the proposal for the grant of pensionary benefits to the petitioner but only returned the said proposal with a query from which date the school has received 100% grant-in-aid. Therefore, on that ground alone, in our view, the

petition is not tenable, as the said proposal has not been rejected as claimed by the petitioner.

(9) Secondly, the Full Bench of this Court in the case of **Deshmukh Dilipkumar Bhagwan and others vs. State of Maharashtra and others reported in 2019(3) Mh.L.J. 903** has categorically held as under:-

"37. In the context of the right of an employee of a private school or college of education to receive pensionary benefits and the corresponding liability of the Government to pay the same, only those schools and colleges of education which are receiving 100% grant-in-aid can be termed as aided institutions."

(10) In the case in hand, undisputedly, respondent No.3 School is not receiving 100% grant-in-aid. Therefore, as observed in the above full bench judgment, the petitioner cannot claim pensionary benefits. In such circumstances, for the reasons above, we are of the view that no case for causing interference in extraordinary jurisdiction is made out by the petitioner. Therefore, in our view, the present writ petition is devoid of any merits and the same is dismissed. No order as to costs.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]