



Judgment

wp7909.23

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

WRIT PETITION No. 7909/2023.

1.Jivan Chaituji Pada,
Aged 56 years, Occupation – Nil,

2.Ishwar Manga Sadmek,
Aged 56 years, Occupation – Nil,

3.Diwakar Channuji Madavi,
Aged 57 years, Occupation – Nil,

All the petitioners are resident of
C/o. Jivan Chaituji Pada, resident of
Gurekasa, Post Gurekasa, Tahsil
Dhanora, Gadchiroli.

... **PETITIONERS.**

VERSUS

1.State of Maharashtra,
through its Secretary, Department
of Rural Development, Mantralaya,
Mumbai – 32.

2.Zilla Parishad, Gadchiroli,
through its Chief Executive Officer.

3.The Education Officer (Primary),
Zilla Parishad, Gadchiroli.

... **RESPONDENTS.**

Rgd.

Mr. P.N. Shende, Advocate for Petitioners.
Mr. V.A. Thakare, A.G.P. for Respondent No.1.
Mr. A.W. Paunikar, Advocate for Respondent Nos. 2 and 3.

**CORAM : VINAY JOSHI AND
M.S. JAWALKAR, JJ.**

DATE : JULY 15, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. Rule. Rule is made returnable forthwith and by consent of the learned Counsel appearing for the respective parties, Writ Petition is taken up for final disposal.

2. Petitioners were appointed as 'untrained teachers' in the school run by respondent no.2 Zilla Parishad, Gadchiroli. Petitioners have completed 20 years of service, but, as they had not acquired the requisite qualification, their services were terminated vide order dated 27.05.2020, and retiral benefits have been denied. Being aggrieved

Rgd.

by the said decision, petitioners seek directions to grant them retiral and pensionary benefits, as available to them under the Rules.

3. The petition is resisted by respondent nos. 2 and 3 by contending that despite reminders from time to time, petitioners have not acquired the requisite qualification. It is contended that petitioners were appointed on a condition to acquire B.Ed. qualification within a period of 5 years of their appointment, but, they did not. Moreover, respondents have relied on the communication dated 04.01.2024 issued by the Deputy Secretary, Government of Maharashtra whereby Rule 101 [1] and [2] of the Maharashtra Civil Services (Pension) Rules, 1982 has been quoted, conveying that a dismissed employee is not entitled for pensionary benefits. The said communication is of no assistance, since it pertains to a dismissed employee.

4. So far as the case of petitioners are concerned, it is not in dispute that they have completed 20 years of qualifying service. Respondents do not dispute that petitioners have been appointed by

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following selection process as contemplated by law. Their appointments were sanctioned on the substantive posts, they have been paid salary as untrained teachers till the date of their termination. In above background, the learned Counsel appearing for petitioners would submit that this Court in case of **Smt.Umabai Ramkrishna Deshmukh .vrs. The State of Maharashtra and others – Writ Petition No.6143/2016 and others decided on 04.07.2019 [Aurangabad Bench]**, after considering the same issue, took a view that petitioners therein are entitled for pensionary benefits. Similarly, this Court in a later decision in case of **Smt.Anjali Madhukar Kando and another .vrs. State of Maharashtra and another - Writ Petition No.2035/2022 decided on 03.04.2023**, has reiterated the view earlier taken by this Court. In said matter also pensionary benefits have been denied on the ground that they were untrained teachers. Certain Government Resolutions have been cited, however, after considering the earlier resolutions and Rule 31 of the Pension Rules, this Court concluded that these untrained teachers have rendered qualifying services and are entitled for pensionary benefits. We see no reason to deviate from the

said ratio. We say so, because only on the ground of not acquiring B.Ed. Qualification petitioners have been terminated.

5. In the circumstances, petitioners being similarly placed untrained teachers, they are entitled for the reliefs claimed. In view of above, Writ Petition is allowed in terms of prayer clause (A). Rule is made absolute in the aforesaid terms, with no order as to costs.

JUDGE

JUDGE