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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13205 OF 2017

Vimal Mohan Bhambal

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

Mr. A. G .Ambetkar, Advocate for the Petitioner

Mr. A. R. Kale, AGP for Respondent - State

Mr. Darshan Pokharkar, Advocate for Respondents No.4 and 5

[CORAM : NITIN B. SURYAWANSHI, &
VAISHALI PATIL-JADHAV, J. J.]

DATE : 6th NOVEMBER, 2025

ORDER :

1. This Petition, filed under Article 226 of the Constitution of India, seeks following relief:

“B. The Hon’ble Court may be pleased to quash and set aside the impugned order dated 18.05.2016 passed by respondent no.3 and communication made by respondent no. 5 on 11.07.2016, and passing appropriate order the respondent no.4 and 5 may kindly be directed to take into consideration the total service rendered by petitioner in their institution in between 01.06.1995 to 31.05.2003 and thereafter from 25.08.2003 to 31.05.2016 for more 21 years and prepare afresh pension papers and forward the respondent no.2 and the respondent no.3 shall consider in the light of Rule 30 of M. C. S. (Pension) Rules, 1982 and grant pension and pensionary benefits to the petitioner accordingly.”

2. The Petitioner claims that, he belongs to Scheduled Caste category and he came to be appointed as a Primary teacher by Respondent No.4 on 1st June, 1995 and he continued there till 31st May, 2003. Appointment order was issued to the Petitioner on Probation, on 25th August, 2003. By order dated 23rd November, 2006, services of the Petitioner were approved with effect from December, 2006. The Petitioner retired on superannuation, on 31st May, 2016. Defined Contributory Pension Scheme (DCP Scheme) was made applicable to the Petitioner. The Petitioner, therefore, filed present Petition claiming that earlier service rendered by her with effect from 1st June, 1995 to 31st May, 2003 be counted for pensionary benefits and the Old Pension Scheme be made applicable to her.

3. The management, by filing affidavit in reply, has opposed the Petition, denying that the Petitioner was appointed by Respondent No.4 on 1st June, 1995 to 31st May, 2003. It is further claimed that, there is no question of appointment of the Petitioner, as the permission to run the school is granted to Respondent No.4 in the year 2000-2001, vide letter dated 1st July, 2002. It is further contended that the School has started receiving 100% grants, in the year 2008. It is, therefore, contended that there is no merit in the Petition and the same

may be dismissed.

4. Learned AGP has opposed the Petition by relying on the affidavit in reply and the Full Bench decision in "***Deshmukh Dilipkumar Bhagwant and Others V/s State of Maharashtra and Others***" 2019 (3) Mh.L.J. 903 wherein, it is held that:

"In our opinion, Government's stand that only those employees of private recognized aided schools who were recruited prior to 1-11-2005 in schools receiving 100% grant-in-aid would continue to be governed by the old pension scheme is correct and valid interpretation".

5. Learned Advocate for the Petitioner submits that, the Full Bench decision is subject matter of challenge before the Apex Court in SLP No. 17766 of 2019 and on 2nd August, 2019 special leave is granted by the Apex Court. He, therefore, submits that, since there is no finality to the decision of the Full Bench, the Petitioner's prayers are required to be granted. He has also placed reliance on various orders passed by this Court at Principal Seat and at Nagpur Bench.

6. We have considered the rival submissions of the parties. Admittedly, in the present case, Respondent No.5 School has started receiving 100% grant in aid, in the year 2008. The Respondent - Management has also denied that the Petitioner was working in the said School since 1995 till 2003.

7. In the backdrop of the facts of the present case, we are of the opinion that the Petitioner's case is covered by the Full Bench decision. Admittedly, while granting special leave, Full Bench decision is not stayed by the Apex Court. In this view of the matter, there is no merit in the Petition and the Writ Petition is dismissed with liberty to the Petitioner to renew her prayer, in case the Full Bench decision is set aside by the Apex Court.

[VAISHALI PATIL-JADHAV]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE