

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9317 OF 2016

Shri Dhondiram Dnyanu Kamble,
Age: 65 years, Occupation: Retired as
Laboratory Assistant, R/o. Ward No. 21,
House No. 515, Swami Apartments,
Southern Side, Jawahar Nagar,
Inchalkaranji, District Kolhapur ... Petitioner

Versus

1. State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai – 400 032
2. The Director of Education (Secondary),
Maharashtra State, Pune.
3. The Deputy Director of Education,
Kolhapur Region, Kolhapur
4. The Education Officer (Secondary),
Zilla Parishad, Kolhapur
5. The Auditor, Audit Cell (Education),
Zilla Parishad, Kolhapur
6. The Inchalkaranji Municipal Council,
Inchalkaranji, District Kolhapur.
7. The Head Master,
Rajashri Shahu Secondary School,
Inchalkaranji, At: Inchalkaranji,
District Kolhapur ... Respondents

...

Mr.Prashant Bhavake for the Petitioner.

Mr. Shahaji B. Shinde, 'B' Panel Counsel with Mr.S.L.Babar, AGP for
Respondent Nos. 1 to 5, State.

Mr.Akshay P. Shinde for Respondent Nos. 6 and 7/ Management.

**CORAM : RAVINDRA V. GHUGE &
M. M. SATHAYE, JJ.**

DATE : 09th JUNE, 2025

ORAL JUDGMENT (Per : Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. We have considered the peculiar facts of this case. The Petition was filed on 11th June 2016 to raise a grievance regarding the purported loss of monetary benefits with effect from 16th December 1975. We made it clear to the learned Advocate for the Petitioner that we would not entertain the Petition on account of the inordinate delay in raising such a stale claim.

3. The learned Advocate for the Petitioner contends, on instructions, that as per the normal rule, if the Petitioner is found to be entitled to any monetary benefits, the same can be granted at least for a period of three years preceding the date of filing of the Petition. The Petitioner has put forth prayer clauses (b), (c) and (d), as under :

“b) By an appropriate Writ, Order or direction, this Hon'ble Court be pleased to direct the Respondents to

forthwith revise the pay-scale of the Petitioner by taking into consideration the continuous service of the Petitioner with effect from 16-12-1975 and accordingly pay all the monetary benefits including arrears in salary payable to the Petitioner;

(c) By an appropriate Writ, Order or direction, this Hon'ble Court be pleased to direct the Respondents to revise the pension of the Petitioner in view of the revising the pay-scale and accordingly pay all the arrears of pensionary benefits admissible to the Petitioner;

(d) Pending the hearing and final disposal of this Writ Petition, this Hon'ble Court be pleased to direct the Respondents to revise the pay-scale of the Petitioner by taking into consideration the continuous service of the Petitioner with effect from 16-12-1975 and accordingly pay all the monetary benefits including the arrears in salary to the Petitioner”.

4. Considering the delay in filing of the Petition, it is contended, on instructions, that the Petitioner will not claim arrears, except for the period of three years preceding the date of the filing of the Petition.

5. It is undisputed that the Petitioner has superannuated on 31st December, 2008 and the aspect of a break in service from 21st May, 1981 to 4th August, 1981 (2 months and 15 days), has been condoned by the order of the Deputy Director of Education, Kolhapur Division, Kolhapur dated 6th October, 2008. As such, the only grievance raised by the Petitioner is with regard to whether the quantum of pension would undergo a change by

considering the condonation of the break of 2 months and 15 days in his service. Admittedly, there has been no application of mind to this claim of the Petitioner.

6. The learned Advocate for the Management submits that if the Education Department takes a call on the grievance voiced by the Petitioner, and if the condonation of the break in service affects the quantum of pension, the pension will have to be recalculated accordingly.

7. The learned 'B' Panel Counsel has strenuously opposed this Petition contending that a stale dispute has been raked up after 40 years.

8. We find that this objection is put to rest by the fact that we have made it clear that we would not consider this Petition for taking up a stale issue, more specifically in connection with monetary benefits.

9. The learned 'B' Panel Counsel further submits that if the Court directs, the issue of whether the quantum of pension would undergo a change in view of the condonation of the break in service of 2 months and 15 days, can be examined by the appropriate authority.

10. It is well settled that if the Petitioner's claim is to be considered and is likely to have an impact on the monetary benefits, arrears of such

benefits can be granted only for a period of three years preceding the date of the filing of the Writ Petition.

11. In view of the above, **this Writ Petition is disposed off** with a direction to Respondent No.3 to consider the aforesaid issue. In short, he will have to assess as to whether the pension quantum will have to be revised by taking into account the condonation of the break of 2 months and 15 days.

12. Let such exercise be completed, within a period of 90 days from today. If Respondent No.3 desires to verify from certain records and for which the cooperation of the Management is required, he shall intimate the Management as regards the nature of the documents which he desires to inspect, within a period of 30 days from today and the Management in such a situation will assist Respondent No.3 by producing the relevant record, within a further period of 15 days.

13. Rule is discharged in view of the above directions.

14. Needless to state, if the grievance of the Petitioner is found to have merit and if the arrears of such pension amount will have to be paid to the Petitioner, the same shall be calculated with effect from June 2013

onwards, which is three years preceding the date of the filing of the Petition and such arrears would be paid to the Petitioner, within 90 days from the date of the decision of Respondent No.3.

(M. M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)