

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

WRIT PETITION NO.8052 OF 2021

TUKARAM DNYANOBA DHUMAL

Age- 55 yrs, Occ. Retired,
R/o-"MAULI KRUPA' DEFENSE COLONY
ROAD, NEW VIKAS NAGAR, KHED,
SATARA, TAL. AND DIST. SATARA

... PETITIONER

Versus

01. RAYAT SHIKSHAN SANSTHA
THROUGH ITS CHAIRMAN
SATARA, DIST, SATARA

02. THE PRINCIPAL SECRETARY
RAYAT SHIKSHAN SANSTHA
SATARA, DIST. SATARA

03. HEAD MASTER
HANUMAN VIDYALAY, SHINDEWADI,
TAL. MALSHIRAS, DIST. SOLAPUR

04. HEAD MASTER
SHANTA RAMKRUSHNA DATAR
ENGLISH SCHOOL AND PARISANNA
INGROLE JUNIOR COLLEGE,
HUPRI, TAL. HATKANANGALE,
DIST. KOLHAPUR

... RESPONDENTS

**WITH
INTERIM APPLICATION NO.9737 OF 2024**

TUKARAM DNYANOBA DHUMAL

Age- 58 yrs, Occ. Retired,
R/o-"MAULI KRUPA' DEFENSE COLONY
ROAD, NEW VIKAS NAGAR, KHED,
SATARA, TAL. AND DIST. SATARA

....APPLICANT
(ORI. PETITIONER)

**IN THE MATTER OF
WRIT PETITION NO.8052 OF 2021**

TUKARAM DNYANOBA DHUMAL

Age- 58 yrs, Occ. Retired,
R/o-'MAULI KRUPA' DEFENSE COLONY
ROAD, NEW VIKAS NAGAR, KHED,
SATARA, TAL. AND DIST. SATARA

...PETITIONER

Versus

**01. THE STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY,
FINANCE DEPARTMENT
MANTRALAY, MUMBAI**

**02. THE STATE OF MAHARASHTRA
THROUGH PRINCIPAL/CHIEF ACCOUNTANT,
MANTRALAY, MUMBAI**

**03. THE EDUCATION OFFICER
SECONDARY SCHOOL DEPARTMENT
ZILLA PARISHAD, KOLHAPUR**

**04. THE EDUCATION OFFICER
SECONDARY SCHOOL DEPARTMENT
ZILLA PARISHAD, SOLAPUR**

**05. THE CHIEF ACCOUNTANT (SECONDARY)
INVESTIGATION, ZILLA PARISHAD, SOLAPUR**

**06. THE EDUCATION OFFICER
SECONDARY SCHOOL DEPARTMENT
ZILLA PARISHAD, PUNE**

**07. THE CHAIRMAN
RAYAT SHIKSHAN SANSTHA,
SATARA, DIST. SATARA**

**08. THE PRINCIPAL SECRETARY
RAYAT SHIKSHAN SANSTHA**

SATARA, DIST. SATARA

09. HEAD MASTER

HANUMAN VIDYALAY, SHINDEWADI,
TAL. MALSHIRAS, DIST. SOLAPUR

10. HEAD MASTER

SHANTARAM KRUSHNA DATAR ENGLISH SCHOOL
AND PARISANNA INGROLE JUNIOR COLLEGE,
HUPRI, TAL. HATKANANGALE, DIST. KOLHAPUR
[SUMMONS TO BE SERVED ON THE
GOVERNMENT PLEADERS OFFICE FOR
SERVICE ON RESPONDENT NOS.1-5]

...RESPONDENTS

Mr. Manmath Athalye for the Petitioner and for Applicant in IA.
Mr. Akshay Shinde for the Respondent Nos. 1 to 4.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

**RESERVED ON : 27TH MARCH, 2025
PRONOUNCED ON: 17TH APRIL, 2025**

JUDGMENT (PER ASHWIN D. BHOBE, J.)

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

2. Petitioner is before this Court making a grievance against
the Respondents, for non-payment of his retiral benefits and pension.

Factual Matrix:-

3. On 20.07.1988, Petitioner was appointed as “Junior College Teacher” by the Respondent No.1 Management. Upon completion of B.Ed., Petitioner was given permanent appointment on 01.07.1990.

4. Petitioner after having served on various posts, Petitioner was appointed as a Headmaster by the Respondent No.1 Management at Shanta Ramkrushna Datar Vidyalay, Hupri, Hatkanangale, Dist. Kolhapur.

5. During the course of service, dispute arose between the Petitioner and the Respondent No.1 in the context of payment of salary/arrears of pay. Said dispute was adjudicated by this Court in Writ Petition No.1943 of 2011 filed by the Respondent No.1, wherein this Court by its order dated 01.08.2012, held that the Petitioner be treated in employment with continuity on the post of lecturer in Junior College from 01.07.1990 and that the pay scale be revised by giving seniority to the Petitioner w.e.f. 01.07.1990.

6. Petitioner opted for Voluntary Retirement by tendering

application dated 27.04.2019 while serving as a Principal at Shanta Ramkrushna Datar Vidyalay Hupri, Hatkanangale, Dist. Kolhapur. Petitioner was relieved from services w.e.f. 31.07.2019.

7. Despite the order dated 01.08.2012 passed by this Court in Writ Petition No.1943 of 2011 and the Petitioner having retired from service, the Respondents neither revised the pay scale nor fixed the pay of the Petitioner, resulting in denial his retiral benefits and pension.

8. Aggrieved by the said act of the Respondents, Petitioner approached the Pension Lok Adalat, High Court of Bombay, by filing pre-litigation Pension Case No.08 of 2019. By order dated 05.10.2019, the Pension Lok Adalat directed the Respondents to process the Voluntary Retirement Application of the Petitioner, which application was not processed by the Respondents on the grounds, which the Pension Lok Adalat found to be untenable. By order dated 29.02.2020 the Pension Lok Addalat directed the Respondents to complete the pending compliance and to process the pension / retiral benefits of the Petitioner.

9. Petitioner made several representations to the Respondents

calling upon the Respondents to comply with the orders passed by this Court and to process the retiral benefits/pension of the Petitioner. Respondents continued with their act of denying the retiral benefits of the Petitioner by raising objections, which according to the Petitioner were untenable.

10. Petitioner is thus before this Court seeking the following substantial reliefs:-

[A] That this Hon'ble Court be pleased issues writ in the nature of mandamus or any other writ to direct the respondents to complete the necessary work to fix the pay scale and calculate and release the pension and retirement benefits of the petitioner as per his pay-scale, at the earliest;

[B] That the respondents be further directed to pay the interest at the rate of 18% p.a. on the dues to the petitioner herein from the date of accrual till its receipt;

[C] That during pendency of the petition, the respondent be directed to complete the paper work and release the pension of the petitioner herein;”

11. On 18.07.2022, this Court passed the following order:-

“1. The grievance of the Petitioner is that the pension proposal is not being forwarded by the Management.

2. Respondent No.1 had given an undertaking before the Lok- Adalat to forward the same.

3. Notice to the Respondents, returnable on 29th August, 2022. Hamdast allowed.”

12. Respondents, though they have appeared, have however not filed a reply.

Submissions:-

13. Mr. Manmath Athalye, learned Advocate for the Petitioner submits that the Respondents by raising one ground or the other have denied the Petitioner his retiral benefits / pension, thereby causing grave and serious prejudice to the Petitioner. He submits that this Court as well as the Pension Lok Adalat have repeatedly issued directions to the Respondents to calculate and process the pension as well as retirement benefits payable to the Petitioner. He submits that the Respondents have not even released the provisional pension payable to the Petitioner, as a result of which the Petitioner has filed Interim Application No.9737 of 2024 seeking a direction for release of provisional pension and future provident fund. He therefore, prays that the petition be allowed.

14. Mr. Akshay Shinde, learned Advocate for the Respondents, has placed on record a letter dated 04.03.2025 issued by the Office of the Accountant General. He submits that the Office of the Account General has raised the following remarks on the pension papers of the Petitioner:

“ 1 PLEASE FURNISH THE SERVICE CERTIFICATES (F.R.A.) FROM THE PERIOD 25.09.1992 TO 05.10.1992 AND ORIGINAL SERVICE CERTIFICATE FROM THE PERIOD 05.05.2010 TO 16.06.2016 DULY COUNTERSIGNED BY THE HIGHER COMPETENT AUTHORITY”.

Analysis:-

15. Petitioner has retired on 31.07.2019. Grievance of the Petitioner is that even after a lapse of more than five years, the Petitioner has not been paid his retiral benefits and pension.

16. In the earlier Writ Petition No.1943 of 2012 filed by the Respondent No.1 against the Petitioner, this Court in its order dated 01.08.2012 in paragraph 13, 14 and 15, has observed as follows:-

“13. Respondent no.2 has correctly interpreted the judgment and acted upon it, by granting recognition to respondent no. 3 from 01.07.1990. Respondent no.3 has not worked as lecturer in Junior College from 18.02.1991 till 31.10.2002. Respondent no. 3 has started work in that capacity on 01.11.2002 and he was receiving salary in that capacity thereafter. We therefore find that there is no question of paying any arrears as such for the service which he has not rendered.

14. However, that does not mean that he is not entitled to grant of continuity in service from 01.07.1999 which needs to be considered with grant of notional increments in pay scale of Junior College Lecturer every year only to find his entitlement on 01.11.2002. In other words arrears becoming payable on account of grant of such notional increment, are not to be actually paid to respondent no.3. However, his fixation is pay-scale on 01.11.2002 is to be revised further by giving him seniority from 10.07.1990. This exercise be completed within a period of three months from today. The amount becoming payable shall be released within further period of three months. The petitioner shall submit necessary proposal for said purpose within a period of one month from today and respondent no.2 shall complete necessary exercise upon it within further period of two months.

15. For all practical purpose except for payment of arrears, respondent no.3 shall be treated in employment with continuity on the post of Lecturer in Junior College from 01.07.1990.”

17. Petitioner in paragraph No.9 of the present memo of petition

has made the following statements:-

“09. The petitioner says and submits that in lights of the orders of the competent courts as mentioned above the petitioner made representations to the respondents from 09.03.2020 till 17.03.2021 In the course of correspondence, the respondent nos. 7-10 raised frivolous and unrelated compliances, such as lack of particulars of PPF accounts opened at each branch of service, lack of handing over of the furniture and stationery charge at the time of relieving the post, pending dues, lack of particulars of leave etc. It is submitted that under the guise of non-compliance, the respondents are not releasing the pension and retirement benefits of the petitioner herein. It is further submitted that the alleged non compliance on part of the petitioner is nothing but façade put on by the respondents to avoid processing the pension and retirement benefits of the petitioner herein, without any just or reasonable ground.”

18. Respondents have chosen not to file reply in the present petition. No explanation, much less any explanation is coming forth from the Respondents for not complying with the order passed by this Court and for not processing the retiral dues / pension papers of the Petitioner. On the non-traverse doctrine, the case pleaded by the Petitioner of the Petitioner being denied the retiral benefits / pension without any just or reasonable cause is required to be accepted. In the case of *Sau Deepthi Vs. Srinivasa*¹, Hon’ble Supreme Court has observed as under:

“6. Since the Respondent has not controverted the statements/averments made in the petition the same are deemed to have admitted by applying the doctrine of non-traverse.”

¹ T.P. (C) No.125 of 2023

19. Pension is not a bounty payable on the sweet will and pleasure of the employer and that, on the other hand, the right to pension is a valuable right vesting in the employee (see Deokinandan Prasad Vs. State of Bihar and Ors.²).

20. We therefore, direct the Respondents to fix the pay scale of the Petitioner, considering the observations made by this Court in Writ Petition No.1943 of 2011, to calculate the pension and release all the retiral benefits and pension payable to the Petitioner in accordance with law, within a period of four weeks from today. We further direct the Respondents to comply with the observations/ deficiencies as referred to in the letter dated 04.03.2025 placed on record by learned Advocate for the Respondents within a period of one week from today.

21. Petitioner has retired on 31.07.2019. In view of the delay in payment of the retirement benefits and the pension, to the Petitioner, delay being attributable to the Respondents, the Respondents are directed to pay the interest at the rate of 10% p.a. on the amounts due and payable to the Petitioner from 31.07.2019 till actual payment.

² (1971) 2 SCC 330

22. The **Writ Petition is allowed** in the above said terms.

23. In view of the disposal of the Writ Petition the **Interim Application No.9737 of 2024 also stands disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)