

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10105 OF 2025

- 1) Prashant Sudam Gavali]
Aged: 48 Yrs, Occ. Assist Teacher]
R/o Mangaon, Tal Hatkanagle,]
Dist. Kolhapur.] **...Petitioner.**

Versus

- 1) The State of Maharashtra,]
Through the Secretary, School Education]
Department, Mantralaya, Mumbai – 400]
032.]
- 2) The Accountant General, State of]
Maharashtra, Mumbai, Having Office at]
Pratishtha Bhavan, 101, M.K. Marg,]
Churchgate, Mumbai-20.]
- 3) The Education Officer (Sec) Zilla Parishad]
Kolhapur.]
- 4) The President/Secretary, Swami]
Vivekanand Shikshan Sanstha, Tarabai]
Park Kolhapur.]
- 5) The Headmaster, Girls Highschool]
Kumbhoj Tal Hatkanagle, Dist Kolhapur.] **...Respondents.**

*Mr. S. A. Rajeshirke a/w Mr. Shubham Vasekar and Mr. Rahul Rane for the
Petitioner.*

Mr. A. P. Vanarase, AGP for the Respondent-State.

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : December 23, 2025.

ORAL JUDGMENT (PER: M. S. KARNIK, J)

1. The Petitioner, by the present Petition, challenges the order dated 17th January 2025 passed by Respondent No. 3, whereby the proposal dated 21st December 2024 seeking applicability of the Old Pension-cum-Gratuity Scheme was rejected. The said proposal sought consideration of the service rendered by the Petitioner as a part-time teacher from 1st January 2003 to 21st March 2007, along with his service as a full-time teacher with effect from 22nd March 2007.

2. Learned AGP appearing for the Respondent-State opposed the Petition and supported the impugned order. An affidavit-in-reply has been filed on behalf of Respondent Nos. 1 and 3. It is stated therein that against the order dated 1st October 2021 passed by this Court in Writ Petition No. 4749 of 2019, the State has preferred a Special Leave Petition before the Hon'ble Supreme Court, which is pending. However, there is nothing on record to indicate that the said order has been stayed. Even the learned AGP was unable to make a categorical statement that the order dated 1st October 2021 stands stayed. In such circumstances, the legal consequences would obviously follow depending upon the final decision of the Hon'ble Supreme Court.

3. The brief facts are that the Petitioner possessed the requisite qualifications for appointment as a Secondary Teacher and belonged to the Scheduled Caste category. After following due procedure, Respondent No. 4-School Management, by an order dated 31st December 2002, appointed the Petitioner as Shikshan Sevak on the post of part-time teacher, receiving 100% grant-in-aid, in a Secondary Night School run by Respondent No. 4, with effect from 1st January 2003.
4. The said appointment was approved by Respondent No. 3 – Education Officer by an order dated 10th November 2003.
5. Thereafter, Respondent No. 4 – Management, by an order dated 20th March 2007, upgraded the Petitioner from part-time to full-time Shikshan Sevak, receiving 100% grant-in-aid, with effect from 22nd March 2007.
6. The Respondent No. 3, by an order dated 30th November 2007, granted approval to the said upgradation after considering 50% of the service rendered by the Petitioner from 1st January 2003 to 21st March 2007 as part-time Shikshan Sevak, and approved the remaining service from 22nd March 2007 to 10th June 2008 as full-time Shikshan Sevak.
7. Upon satisfactory completion of the prescribed period, Respondent No. 4 – School Management confirmed the Petitioner in the regular pay scale with effect from 11th June 2008.

8. The said confirmation and upgradation, considering the Petitioner's part-time service, was approved by Respondent No. 3 by an order dated 20th October 2008.

9. Despite this, instead of extending the benefit of the Old Pension-cum-Gratuity Scheme, the Respondents made applicable the Defined Contributory Pension Scheme (for short "DCPS"), which was subsequently converted into the National Pension Scheme (for short "NPS").

10. Learned Counsel for the Petitioner contended that the Petitioner is entitled to the benefit of the Old Pension-cum-Gratuity Scheme, since his initial appointment as a part-time teacher commenced from 1st January 2003, much prior to the cut-off date, and his subsequent service as a full-time teacher from 22nd March 2007 has been duly approved.

11. The Respondent No. 5 – School, therefore, submitted a proposal dated 21st December 2024 seeking applicability of the Old Pension-cum-Gratuity Scheme by considering the Petitioner's service from 1st January 2003. The said proposal was rejected/returned by Respondent No. 3 solely on the ground that there was no specific direction from Respondent No. 1.

12. We find merit in the submissions advanced on behalf of the Petitioner. The issue involved is squarely covered by the decision of this

Court in ***Mone Rashmi Shriram vs. State of Maharashtra & Ors.***¹

13. Our attention is also invited to the decision of this Court in ***Vijaya Rajgonda Patil @ Vijaykumar Kole vs. State of Maharashtra & Ors.***, decided in Writ Petition No. 11721 of 2023 on 11th November 2025.

14. In light of the aforesaid decisions, 50% of the service rendered by the Petitioner from 1st January 2003 to 21st March 2007 is required to be considered for the purpose of pension and other retirement benefits.

15. The Education Officer ought to have considered the Petitioner's service with effect from 1st January 2003, which was duly approved, and also the fact that the School was receiving 100% grant-in-aid. The Petitioner is still in employment.

16. Consequently, the impugned order dated 17th January 2025 is found to be unsustainable and is hereby quashed and set aside.

17. In such view of the matter, the Petition is allowed in terms of prayer clause (a), (b), (d) and (e).

"a] This Hon Court may be pleased to issue writ of Certiorari or any other Writ or direction and call for record and proceedings in respect of order dated 17/01/2025 passed by the Respondent no 3 thereby returning proposal dated 21/12/2024 for making applicable old Pension, cum gratuity scale.

b] This Hon Court may after considering legality validity

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and propriety of the order dated 17/01/2025 passed by the Respondent no 3 thereby returning proposal dated 21/12/2024 for making applicable old Pension, cum gratuity scale be pleased to quash and set aside the same.

d] This Hon'ble Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or direction thereby directing the Respondents to make applicable Old Pension Cum Gratuity Scheme by considering 50% of initial part time appointment of the Petitioner w.e.f. 1/01/2003 on a 100% aided post upto 21/03/2007 along with service rendered as Full time teacher from 22/03/2007.

e) This Hon Court may be pleased to direct Respondents to return the amount of the Petitioner's Contribution deducted and deposited towards initially DCPS Pension scheme and thereafter NPS Pension scheme along with interest accrued thereon."

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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