IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11537 OF 2025

District: Kolhapur

Sou. Sangita Anil Manglekar	]	
Age 53 yrs. Occ. Retd.,	]	
R/o. 201/2-B, Raut Sir Colony,	]	
Peth Vadgaon, Tal-Hatkanangale,	]	
Dist. Kolhapur.	]	… Petitioner

Versus

1.	The State of Maharashtra	]	
	Thru. The Secretary for	]	
	School Education & Sports Dept.,	]	
	Mantralaya, Mumbai.	]	
2.	The State of Maharashtra	]	
	Thru. The Secretary for	]	
	Finance Dept., Mantralaya, Mumbai.	]	
3.	The Indian Audit & Accounts Dept.	]	
	Office of the Accountant General,	]	
	(Accounts & Entitlements) Maharashtra	]	
	Having its office at	]	
	2nd Floor, Pratiksha Bhavan,	]	
	New Marine Lines, 101, Maharshi Karve	]	
	Road, Churchgate, Mumbai – 20.	]	
4.	Sr. Accounts Officer / PR-6	]	

Having his Office at]
Working in the office of]
The Indian Audit & Accounts Dept.]
Office of the Accountant General,]
(Accounts & Entitlements) Maharashtra]
Having its office at]
2nd Floor, Pratiksha Bhavan,]
New Marine Lines, 101, Maharshi Karve]
Road, Churchgate, Mumbai – 20.]

5. The Education Officer (Secondary)]
Kolhapur Having his office at]
Zilla Parishad, Kolhapur.]

6. The Secretary / President]
Shri Balasaheb Mane Shikshan Prasarak]
Mandal, Ambap, Tal. Hatkanangale,]
Dist. Kolhapur.] … Respondents

Mr. Anand Patil for the Petitioner.
Mr. S.B. Kalel, A.G.P. for the Respondent Nos.1 to 5-State.
Mr. Soham Pawar for the Respondent No.6.

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

Date : 19th December 2025.

ORAL JUDGMENT (PER : AJIT B. KADETHANKAR, J.)

1. By the present Petition, the Petitioner has put forth the following prayers :

"a) Be issue Rule;

b) This Hon'ble Court may please to quash & aside the impugned Orders dated 18/02/2025 & 23/05/2025 passed by Respondent No. 4 & may hold & declare that the Petitioner is entitled for the benefit of FD Circular No. Vetan2023/PK.13/Seva-3 dated 28/06/2023 & School Education Department's GR dated 7/07/2023 & 11/09/2023 & may direct the Respondent No. 4 to revise her pension immediately.

c) Pending the hearing & final disposal of the present Petition this Hon'ble Court may grant stay to the impugned Orders dated 18/02/2025 & 23/05/2025 passed by Respondent No. 4.

d) Interim, ad-interim relief as per prayer clause (d) may be granted.

e) Pass such further Order and other relief as the nature and circumstances of the case may require."

2. <u>SUBJECT MATTER :</u>

2.1 The Government of Maharashtra has taken a policy decision to extend the benefit of one notional increment on the following 1st July to employees retiring on 30th June of the concerned year. This benefit is made applicable to the employees of the State, the employees of the Zilla Parishad(s) and also the employees in the fully aided private Educational Institutions.

2.2 The Petitioner served as Headmistress in a fully aided school during 01-06-2015 to 30-06-2024. She opted for voluntary retirement with effect from 30-06-2024.

2.3 The Respondent No.4 declined to grant the benefit of one notional increment to the Petitioner raising an objection that although the Petitioner is retired on 30-06-2024, her retirement was 'a voluntary retirement'.

2.4 As such the said Authority objecting that voluntary retirement cannot be equated with retirement by superannuation for the purpose of the scheme of one notional increment, rejected the proposal filed by the School Management and the Education Officer, for grant of one notional increment to the Petitioner.

2.5 As such whether 'voluntary retirement' is excluded from the term 'retirement' as mentioned in the Government Resolution (G.R.) dated 28-06-2023 (Annexure 'A') is the subject matter for adjudication in the present Petition.

3. Considering the subject matter of the Petition, we deem it appropriate to dispose the Writ Petition finally by consent of the parties.

4. **Rule**. Rule made returnable forthwith. Heard the matter for final disposal.

5. Facts in brief:-

5.1 The facts in the case are undisputed. The Petitioner was appointed as 'Assistant Teacher' with effect from 02-11-1998 in the School run by the Respondent No.6 – Institution.

5.2 On 01-06-2015, the Petitioner came to be promoted on the post of Headmistress, where she served on the same post till 30-062024.

5.3 It is an admitted fact that the Petitioner's every appointment was duly approved by the competent Authority.

5.4 Due to some personal reasons, the Petitioner sought voluntary retirement with effect from 30-06-2024 from the post of Headmistress. Subsequent to the retirement of Petitioner, her pension proposal was submitted by the School Management to the Education Officer (Secondary), Zilla Parishad, Kolhapur.

5.5 The Education Officer after verifying the record and satisfying with the correctness recommended the proposal to the Respondent No.4 for grant of pension.

5.6 It appears that, vide a letter dated 18-02-2025 the Respondent No.4 returned the pension papers to the Education Officer, rejecting the pension proposal containing one notional increment.

5.7 The reason recorded by the Respondent No.4 for returning the Petitioner's pension proposal is as follows :

> *"As per F.D. Circular no. Vetan2023/P.K. 13/Seva-3 dated 28/06/2023 and School Education Department's G.R. dated 07/07/2023, notional increment as on 1st July is admissible to employees retired on 30th June on superannuation retirement.*
>
> *In the present case Smt Sangita Anil Mangalekar has retired voluntarily on 30/06/2024 hence she is not admissible for notional increment under the criteria as per G.R.FD dated 28/06/2023."*

5.8 The Petitioner filed a representation on 12-03-2025 to the Education Officer thereby requesting to convince the Respondent No.4 that the Petitioner is squarely covered by the G.R. dated 28-06-2023.

5.9 It is pertinent to note that vide G.R. dated 2806-2023 the State of Maharashtra Finance Department resolved to grant one notional increment of following 1st July to such Government employees who retired on 30th June and had completed service for preceding 12 months.

5.10 It is needful to record that the G.R. dated 28-06-2023 was issued by the State Government in the light of the directions issued by this Court (Aurangabad Bench) on 16-02-2023 in Writ Petition No. 1881 of 2023 with connected matters. The directions issued by this Court are reproduced as follows :

“[a] We direct the Chief Secretary of the State of Maharashtra and Principal Secretary (Finance Department), State of Maharashtra, to issue appropriate directions to all the concerned departments to appeal to such candidates, who fall in such category having retired on 30th June of the particular years and who have earned the annual increment on account of performing work for 12 months ending on 30th June, to tender their applications to the concerned Authorities.

[b] After such applications are received, the concerned authorities would grant the reliefs as are being granted by the various High Courts by restricting the arrears of payments to 3 years preceding the dates of the applications or preceding the date of actual retirement as per actuals, whichever is less. With these guidelines, the concerned authorities shall not reject a single application if it fits into the parameters of the judgments delivered by this Court.

[c] In the alternative, let the concerned authorities suo-moto dig out such cases and after scrutinizing the same as regards their entitlement, proceed to grant the benefits as per the judgments of this court, within 120 days.

[d] While undertaking the above exercise, the gratuity/pay fixation/pension will be re-calculated, so as to be paid to the candidates with arrears as directed above."

5.11 Vide subsequent G.R. dated 07-07-2023 the benefits of G.R. dated 28-06-2023 made applicable to the teaching and non-teaching employees of fully aided private schools.

5.12 Vide another G.R. dated 11-09-2023 the same benefits came to be extended to all employees in the Zilla Parishad(s) too.

5.13 As such the Petitioner's pension proposal was filed holding one notional increment for the purpose of her pension and other monetary benefits in the light of the G.R. dated 28-06-2023 and 07-07-2023.

5.14 The Respondent No.4 however observed that the term 'retirement' mentioned in the G.R. dated 28-06-2023 excludes the 'voluntarily retirement'. As such on this ground, the Respondent No.4 remitted back the Petitioner's pension proposal and the Petitioner is before this Court with the aforesaid prayers.

6. <u>Petitioner's arguments:</u>

6.1 Mr. Patil, learned counsel would submit that the logic applied by the Respondent No.4 is absolutely erroneous. He would submit that the G.R.s dated 28-06-2023 and the subsequent Government Resolutions do not make any difference in between any category of retired employees.

6.2 Mr. Patil would further submit that this is a fit case where this Court ought to invoke the jurisdiction under Article 226 of the Constitution of India and direct the Respondent No.4 to sanction the pension proposal of the Petitioner as is submitted by the Education Officer.

7. Respondent's arguments: -

7.1 The School Management obviously supports the Petitioner's case. So also the Education Officer also justifies the pension proposal and applicability of the G.R.s dated 28-06-2023 and 07-07-2023 to the Petitioner's case.

7.2 However, Mr. Kalel, learned Assistant Government Pleader for the Respondent Nos.1 to 5 would support the observations and the Order passed by the Respondent No.4 for the reasons stated therein.

8. Discussion and consideration: -

8.1 It is not in dispute that the Petitioner has sought lawful voluntary retirement by due process and by giving a three months prior notice. The genesis of the Government Resolutions dated 28-06-2023, 07-07-2023 and 11-09-2023 is the directions given by this Court at Aurangabad Bench (supra).

8.2 This Court did not differentiate in between the categories of 'retirement'. Accordingly, the State of Maharashtra in its G.R. dated 28-06-2023 resolved as follows :

> *"मा. उच्च न्यायालय, खंडपीठ औरंगाबाद यांनी दिलेले उपरोक्त आदेश विचारात घेऊन सर्व विभागांना खालीलप्रमाणे कळविण्यात येत आहे.*
>
> *जे राज्य शासकीय कर्मचारी दि.३० जून रोजी सेवानिवृत्त झाले आहेत व*

ज्यांनी मागील १२ महिन्यांची अर्हताकारी सेवा केलेली आहे अशा सर्व सेवानिवृत्त कर्मचाऱ्यांना दि.०१ जुलै रोजीची काल्पनिक (Notional) वेतनावाढ विचारात घेऊन, त्यांचे सेवानिवृत्तीवेतन सुधारीत करण्यासाठी संबंधित कार्यालयांकडे अर्ज करण्याबाबत सर्व संबंधित सेवानिवृत्तांना आवाहन करण्याबाबत, सर्व मंत्रालयीन प्रशासकीय विभागांनी त्यांच्या अधिनस्त कार्यालयातील विभागप्रमुखांना कळवावे.

त्यानंतर याप्रमाणे अर्ज प्राप्त झाल्यानंतर, संबंधित कार्यालयांनी वर नमूद केलेल्या मा. उच्च न्यायालय, खंडपीठ औरंगाबाद यांच्या उपरोक्त आदेशात नमूद केल्यानुसार संबंधितांना सुधारीत सेवानिवृत्तीविषयक लाभ अनुज्ञेय करावेत. तसेच सदर लाभ सुधारीत करण्यात आल्यानंतर त्यांनी अर्ज दाखल केलेल्या दिनांकाच्या मागील ३ वर्षांची थकबाकी अथवा त्यांच्या सेवानिवृत्तीचा दिनांक या पैकी जे कमी असेल तितकी थकबाकी देण्यात यावी. मा. उच्च न्यायालयाने दिलेल्या मार्गदर्शक तत्वांची पूर्तता करीत असलेल्या कोणत्याही सेवानिवृत्ताचा अर्ज फेटाळण्यात येऊ नये.

तसेच संबंधित कार्यालयांनी त्यांच्याकडे उपलब्ध असलेल्या माहितीच्या आधारे अशा प्रकरणांचा त्यांच्या स्तरावरच तपासणी करुन निपटारा करावा.

उपरोक्त प्रमाणे कार्यवाही केल्यानंतर मा. उच्च न्यायालय, खंडपीठ औरंगाबाद यांनी त्यांच्या दिनांक १६.०२.२०२३ रोजी च्या आदेशातील परिच्छेद क्रमांक ९ मध्ये नमूद केले आहे की, This notional inclusion of the annual Increment would be considered for re-calculating their pension, gratuity, earned leave, commutation of pension benefits etc. तरी त्याप्रमाणे अर्जदारास लाभअनुज्ञेय करण्यात यावे.

मा. उच्च न्यायालय, खंडपीठ औरंगाबाद यांच्या उपरोक्त निर्णयाचे तंतोतंत पालन करण्यात यावे."

8.3 We do not fathom the logic applied and reasoning rendered by the Respondent No.4 to exclude category of the 'voluntary retirement' from the 'ordinary retirement' of an employee. The Government resolution dated 28-06-2023 is in Marathi and which speaks only in respect of 'Retirement'. Voluntary retirement is termed as "स्वेच्छानिवृत्ती". The State Government consciously recorded the term "*सेवानिवृत्त कर्मचाऱ्यांना*" meaning thereby not making any difference in the categories of retired employees, particularly the Voluntary retired employees and the employees retiring upon completion of full term.,

8.4 In the service jurisprudence a 'voluntary retirement' is nonetheless different from the routine retirement by superannuation. The only effect of voluntary retirement could be on the quantum of pension corresponding to the tenure of service at the most in peculiar facts of a case i.e. the date on which voluntary retirement is sought.

However, by no stretch of imagination it could be said that the benefits of Government Resolutions dated 28-06-2023, 07-07-2023 and 11-09-2023 are restricted only to the extent of such employee who completes his ordinary service tenure, and won't apply to the employees who sought voluntary retirement.

8.5 We did not come across any argument by the respondent side pointing out a definition of Voluntary Retirement in the Maharashtra Employees Private Schools Act 1977 and Rules thereunder.

However, it can be seen that the Government of Maharashtra in 1978 introduced a Voluntary Retirement Scheme for the State Govt. employees vide Government Resolution dated 04th Marh 1978. Clause 2 (b) of the said Scheme provided that *"the benefit of 'retiring pension'* *will be applicable to Government Servants retiring under this Scheme."*

It is not disputed that on the date of the Petitioner's voluntary retirement i.e. 30-06-2024 the Petitioner has completed the ordinary full pensionable service.

It is well settled that where other rules are silent in this field, the Maharashtra Civil Services Rules and the Government Resolutions issued by the State Government from time to time in concerned subject-matter, have to be taken into consideration.

8.6 In these circumstances, the Respondent No.4 is not at all justified in raising and maintaining such notion, which is absolutely not envisaged in the policy of the State Government while issuing Government Resolution dated 28-06-2023 and subsequent government resolutions. The exclusion carved out by the Respondent No.4 is absolutely foreign to the policy decision taken by the State Government vide the cited Government Resolutions (supra).

8.7 It seems that the reasoning rendered by the Respondent No.4 is misconceived between 'voluntary retirement' and 'resignation'. As we have hold (supra), 'voluntary retirement' is recognized by the law as a 'permissible retirement' and it does not affect the pensionary benefits, which an employee retiring upon completion of the full tenure is entitled to enjoy. It is at par with the ordinary retirement in all respect when opted upon completion of full pensionable service. Off course it is a premature retirement, but an employee opting for it shall not be deprived of any pensionary benefit which he/she would have earned upon retiring routinely.

8.8 As such we have no doubt in our minds that an employee who retires voluntarily by due process on 30th June of the year and has completed preceding 12 months in service is covered by the Government Resolutions dated 28-06-2023, 07-07-2023 and 11-09-2023. The only requirement of the aforesaid policy is that the employee must have completed 12 preceding months in the service while before retiring.

9. For the reasons stated above, we are of the firm opinion that the Petitioner has made out a case for our interference under Articles 14 and 226 of the Constitution of India.

10. In the light of the above, we pass the following Order :

(i) The Writ Petition stands allowed.

(ii) The communications / Orders passed by the Respondent No.4 on 18-02-2025 (Exhibit 'C' / page 30) and 23-05-2025 (Exhibit 'E' / page 32) are quashed and set-aside.

(iii) The Education Officer shall resubmit the pension proposal of the Petitioner to the Respondent No.4 within four weeks from today. Learned Assistant Government Pleader to inform this Order to the Education Officer immediately.

(iv) Upon receipt of the resubmitted proposal (supra), the Respondent No.4 shall approve the pension proposal of the Petitioner without objecting to her entitlement for one notional increment dated 01-07-2024 and shall sanction the pension proposal within four weeks thereafter.

(v) For the sake of clarity, we declare that the Petitioner is entitled for the benefit of one notional increment for the purpose of computation of her pension in the light of the Government Resolutions dated 28-06-2023, 07-07-2023 and 11-09-2023.

(vi) Rule is made absolute in the above terms.

(vii) Writ Petition stands disposed of.

(viii) No order as to costs.

[Ajit B. Kadethankar, J.] **[M. S. Karnik, J.]**

OMKAR SHIVAHAR KUMBHAKARN

Digitally signed by OMKAR SHIVAHAR KUMBHAKARN Date: 2025.12.23 16:14:33 +0530