



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3321 OF 2024

Shishupal Tukaram Dahagaokar, aged – 52
years, Occ. Nil, R/o Dume, Post Dume, Tq.
Etapalli, Dist. Gadchiroli.

... PETITIONER

VERSUS

1. State of Maharashtra, through its Secretary,
Department of Rural Development,
Mantralaya, Mumbai – 32.
2. Zilla Parishad, Gadchiroli, through its Chief
Executive Officer.

... RESPONDENTS

Shri P.D. Shende, Advocate for the petitioner.

Shri P.P. Pendke, Assistant Government Pleader for the respondent
no.1/State.

Shri B.N. Jaipurkar, Advocate h/f Mrs Gayatri M. Reve, Advocate for
respondent no.2.

CORAM : SMT. M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.

DATE : 01.07.2025.

ORAL JUDGMENT : (Per : Pravin S. Patil, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the

parties.

3. The petitioner seeks direction against Respondent No.2, the Chief Executive Officer of Zilla Parishad, Gadchiroli, to forthwith release the regular pension and other pensionary benefits in his favour.

4. The learned counsel for the petitioner submitted that issue involved in the present matter has been covered by the Judgment dated 03/04/2023 passed in *Writ Petition No.2035/2022 (Smt.Anjali wd/o. Madhukar Kando and another vs. State of Maharashtra and another)* and pointed out para 5 thereof and submitted that though the petitioner was terminated on account of not acquiring the requisite qualification of D. Ed., he could be considered as an untrained teacher and as per the dictum and Rule 30 of the Maharashtra Pension Rules, 1982, the petitioner is entitled to pensionary benefits, having completed the qualifying service of 20 years.

5. In response, Mr. Jaipurkar, learned counsel for respondent No. 2, argued that the petitioner failed to acquire the D.Ed. qualification; therefore, his service was terminated, and consequently, he is not entitled to Pensionary benefits. He has relied upon the Government Resolution dated 09.02.2016 to support his submission. It is his submission that terminated employee is not entitle for pensionary

benefits.

6. Mr. Jaipurkar, to substantiate his contentions has relied upon the judgment dated 05/06/2023 passed in *Writ Petition No.7351/2022 (Shri Baburao Komti Usendi vs. State of Maharashtra and others)* as well as Contempt Petition arising out of the same petition bearing Contempt Petition No.351/2023 and submitted that in the said matter also the claim of the petitioner was rejected. The matter was remanded back to the respondents for fresh consideration; however, thereafter, the respondent authority rejected the petitioner's claim, and therefore, the Contempt Petition was dismissed.

7. However, we find that in the said judgment, the question of the petitioner's entitlement to grant of pensionary benefits was not considered, and the Contempt Petition was also dismissed, as the said order Had been complied with.

8. We have appreciated the submissions and gone through the impugned order, record, and judgment cited above.

9. Having considered the same, we would like to reproduce para 5 of the judgment in *Smt. Anjali (supra)*, which reads thus as under :-

“5. According to the petitioner, the deceased husband of the petitioner 1 was recruited by due process of law. By now, it appears to be common ground that the services of the deceased husband of the petitioner 1 are terminated vide order dated 27.05.2020 on the premise that he did not acquire the D.Ed. qualification. Be that as it may, the refusal of the Zilla Parishad to release the pensionary benefits in favour of the petitioners on the premise that the deceased husband of petitioner 1 did not acquire the D.Ed. training qualification and was terminated from service appears to be absolutely untenable in law. The learned counsel, Ms. Munshi, fairly does not dispute that the Co-ordinate Benches have already taken a view that if qualifying service is complete, pension cannot be denied on the premise that the employee was working as an Untrained Teacher.”

10. Having considered the same, we find substance in the contention of the learned counsel for the petitioner that the present case is squarely covered by what has been held by the co-ordinate bench in the judgment passed in *Smt. Umabai Deshmukh (W.P.No. 6143/2016)* and which followed in *Anjali Kando (supra)*.

11. It is further submitted that services of the petitioner are not terminated for committing any misconduct, misbehavior or for any like reason. The services are terminated only for not obtaining training qualification. Coordinate Bench at Aurangabad High Court has dealt with somewhat similar issue in Writ Petition No.6143 of 2016. In that case, the directions were issued to the State that pensionary benefits should not be refused on the ground that the teacher is not possession

training qualification. It will be relevant to reproduce paragraph 15 of the above said judgment as under :

“15. The provisions of the Government Resolution dated 04th October, 1983 are self eloquent. It has been observed in the said Government Resolution that these teachers have rendered laudable service and during their tenure the educational institutions have prospered and the results of such institutions are also excellent. The Division Bench in the case of Smt. Gokula Vilas Patil vs. The Education Officer (Primary) Sangli and others (supra) further observed that, cut off date provided does not have any rational and one could have considered, if the cut off date provided was the date of Government Resolution or the subsequent date and in clear words observed that the Government Resolution does not have any nexus with the object. The Division Bench further observed that, by the 1983 Government Resolution, the State could not have gone backward by nine years to provide a cut of date”

12. In the circumstances, we are of the considered opinion that termination of the petitioner on the ground of not obtaining D.Ed. Qualification cannot be held impediment to release his pensionary benefits, particularly, when respondent no.2 allowed the petitioner to work on the post for a period more than 20 years.

13. Accordingly, we proceed to pass the following order :

14. Respondent No. 2, the Chief Executive Officer, Zilla Parishad, Gadchiroli is hereby directed to release the family pension

and other pensionary benefits forthwith in favour of the petitioner, as per the pay scale, i.e., as per the existing pay-scale as an 'Untrained Teacher'. Accordingly, the petition stands disposed of in the above terms.

15. Rule is made absolute in the above terms. No costs.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)

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