



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

WRIT PETITION NO. 4701 OF 2023

State of Maharashtra and others

.Vs.

Dr. Ashish Manoharrao Mahalle

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr Neeraj Patil, AGP for the petitioners
Ms Ritu Jog, Advocate for respondent

CORAM : ANIL S. KILOR AND RAJNISH R. VYAS, JJ.
DATED : NOVEMBER 25, 2025.

Heard.

2. The State Government has filed this petition questioning the legality and validity of the judgment dated 14.07.2022 passed in Original Application No. 38 of 2021, filed by the respondent, claiming the benefits of old pension scheme.

3. The Tribunal vide impugned judgment and order dated 14.07.2022 allowed the original application and directed the petitioners to regularize the services of the applicant/respondent from the date of his initial appointment i.e. from 30.09.1999 for the purpose of counting his service for pensionary benefits. The petitioners are further directed to give all the benefits of old pension scheme to the applicant treating his regular service from 30.09.1999.

4. The learned Tribunal while allowing such claim of the respondent has recorded the findings as follows:

“11. There is no dispute that the applicant was appointed as a Reader in the Rashtra Sant Tukdoji Maharashtra University, Nagpur. It is government recognised post. The applicant applied for relieving him from Engineering College of Amravati. He was relieved to join the new posting as a Reader. The applicant was in continuous service when he joined the post of Reader in the year 2009.

12. The applicant was made permanent on the post of Professor as per office order dated 11/05/2011 (P-162) of Vice Chancellor, Rastra Sant Tukdoji Maharaj University, Nagpur. The applicant was appointed by the MPSC on the post of Professor in Govt. Engineering College, Jalgaon as per the order dated 28/12/2016 (Annex-A-17). The applicant could not join and therefore on his request he was posted at Amravati in the Govt. Engineering College.

13. It is clear from the documents filed on record that whole service of the applicant was as a Lecturer in the Government Engineering College and as a Reader in the Laxminarayan Institute of Technology. The services of the applicant were protected by this Tribunal and thereafter by the Hon'ble Bombay High Court, Bench at Nagpur. The Hon'ble Bombay High Court, Bench at Nagpur has passed the order in Writ Petition No. 2046/2010. In para-22 of the order passed in Writ Petition No.2046/2010 is reproduced as under :

"22. The respondents are directed to regularize the services of such of the petitioners and confer permanency on such petitioners who have completed three years' service with technical breaks. The respondents shall absorb the petitioners within a period of six weeks. Needless to state that the petitioners who are in continuous employment till 15.10.2013, shall be continued in service as regular employees.

However, in the facts and circumstances of the case, we direct that the petitioners shall be entitled to regular salary from 1st November, 2013 and would not be entitled to claim any monetary benefits for the past services rendered by them in spite of their regularization. Needless to state that since the petitioners' services are regularized, they shall be entitled to the continuity in service for all other purposes except monetary purposes from the date of their first appointment."

14. *The applicant was in service for more than three years from 1999, therefore, he is also entitled for the same relief in view of the G.R. dated 28/2/2017. On the basis of the Judgment of Bombay High Court, similarly situated employees like the applicant were regularised. Therefore, the same treatment should have been given by the respondents to the applicant in view of G.R. dated 28/2/2017. The Judgments pointed out by the learned counsel for applicant show that similarly situated employees approached to the Tribunal / High Court got the benefit of old pension scheme by counting their ad-hoc services as a regular services. In Writ Petition No. 5273/2017 decided on 3/7/2019, the Hon'ble Bombay High Court, Bench at Nagpur passed the following order -*

"(4) Writ Petition is allowed. Respondents no.1 and 2 are directed to consider the claim of the petitioner regarding taking into account the ad-hoc service of the petitioner for granting continuity in service, making of placement in service and grant all pensionary and retiral benefit to the petitioner on the same line as they have done following the directions issued by this Court on 17/9/2018 in Writ Petition No.4770/2017. Of course, we make it clear here that some facts extent, the discretion can be appropriately exercised by the respondents."

15. *The Maharashtra Administrative Tribunal, Principal Bench, Mumbai in O.A. 43/2018 granted relief to the similarly situated employees whose services were ad-hoc basis. It was declared that period of employment of the said employees, i.e., the temporary period shall be treated as ad-hoc employee for the consideration of benefit of time bound promotion. The break in service being a technical break shall be treated as continuity in service.*

16. *The representations of the applicant are replied by the respondents / government as per communications dated 17/1/2022 and 21/1/2022. It was informed to the applicant that's his service from 22/10/1999 to 5/8/2009 was a temporary / seasonal service, therefore, he is not eligible / entitled for old regular pension scheme. It is pertinent to note that the respondents have regularised the services of similarly situated employees as per the G.R. dated 13/3/2015. It*

is also pointed out by learned counsel that as per the direction of Bombay High Court, Bench at Nagpur in Writ Petition No. 5273/2017, decided on 3/7/2019 the Bombay High Court, Nagpur Bench directed the Government of Maharashtra to regularise the services of the similarly situated employees who had completed three years service with a technical break. Services of those employees are now regularised as per G.R. dated 9/12/2021.

17. The respondents are expected to give the same treatment to the similarly situated employees. It is clear that services of similarly Situated employees like the applicant were regularised as per the direction of Hon'ble Bombay High Court. The G.R. dated 28/2/2017 was issued by the Govt. of Maharashtra. The relevant portion in para-3 of the G.R. is reproduced as under -

3. The Hon'ble Supreme Court in the case of State of Uttar Pradesh & Ors Vs. Arvind Kumar Srivastava reported in 2015 (1) SCC 347 has laid down similar principle, thus:

"Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently."

18. It is clear that the temporary services of similarly situated employees like the applicant were regularised by the Government, then there was no hurdle for the Government to consider the representations of applicant by taking into consideration the G.R. dated 28/2/2017. The applicant was initially appointed in the year 1999. His service was continued with a technical break. Whole service of the applicant was with the respondents/department and therefore he is entitled for the same treatment as like other similarly situated employees. ..."

5. Having gone through the findings recorded by the Tribunal and on perusal of the record we do not find any merit in the present petition as the findings recorded by the Tribunal are just and proper. Moreover, no perversity has been pointed out in granting such relief and allowing the original application in favour of the respondent.

6. Thus, in absence of any merit in the present petition, we **dismiss** the same. No order as to costs.

[RAJNISH R. VYAS, J]

[ANIL S. KILOR, J.]

Namrata