



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4403/2021

Smt. Manisha Jayant Deshpande

Vs.

The State of Maharashtra and Ors.

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

Court's or Judge's orders

Mr. Akshaya Sudame, Advocate for Petitioner.
Mr. H. D. Marathe, A.G.P. for Respondent Nos.1 to 5/State.
Mr. K. V. Bhoskar, Advocate for Respondent No.6.

CORAM : NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.

DATED : 01/04/2025.

1. After working on the post of Part Time Librarian with effect from 17.12.1999 for which an approval was granted on 28.12.2001, the petitioner got superannuated in 2021.

2. Post superannuation, the petitioner has approached this Court seeking pension and gratuity.

3. So as to substantiate the contentions, the learned Counsel for the petitioner has sought support from the policy reflected in Government Resolution dated 01.09.2018 and as such claimed both pension and gratuity.

4. Drawing support from Rule 19 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short, "the MEPS Rules"), the contentions are, the category formed thereunder cannot be read to the detriment of the petitioner being a Part Time Librarian and that being so, the benefits under said Rules are required to be extended to the petitioner for release of

pension, so also gratuity.

5. When confronted, the learned Counsel for the petitioner has conceded that the issue as canvassed before the Aurangabad Bench in Writ Petition No.7933/2021 has negated the aforesaid contention to the extent of pension. However, he is requesting for release of gratuity.

6. As far as the views expressed by the Aurangabad Bench in the matter of Writ Petition No.7933/2021 (Vijaysingh Ramsingh Patil Vs. The State of Maharashtra and Ors.) and connected matters decided on 19.08.2022, the observations in para 17 read thus :

“17. After going through the provisions of Rule 19, we find that interpretation placed before us by Mr. Dhage is entirely erroneous. Even though Rule 19 divides the employees into three categories as stated herein above, the correct interpretation of Rule 19 would mean that the words "full time basis" is common to all the three categories. If the erroneous interpretation of Mr. Dhage is accepted, then on account of non-inclusion of the word "added" in the 3rd category of employees, even employees of unaided schools would be in position to demand pension. When we put across this difficulty before Mr. Dhage, he could not give any satisfactory answer. A purposeful interpretation is required to be given to the provisions of Rule 19. Furthermore, there has to be harmonious interpretation of the provisos of Rule 70.4 of the Code of 2015 and Rule-19 of the Rules of 1981. If we accept the erroneous interpretation placed before us by Mr. Dhage, the same would render the provisions of Rule 70.4 of the Code of 2015 otiose. Therefore, we must avoid such erroneous interpretation of Rule 19 which would render Rule 70.4 of the Code of 2015 superfluous. We,

therefore, reject the contention of Mr. Dhage that all part time employees appointed after 01.04.1966 or 01.04.1979 in secondary school and primary school, whether they work on full time or part-time basis are entitled to the benefit of pension scheme.”

7. We have perused the said findings in the light of the scheme of Rule 19 of the MEPS Rules and we are in agreement with the reasons expressed by the learned Single Judge while analyzing the scheme of Rule 19 and the rejection of the prayer for grant of pension to the Part Time Librarian.

8. As regards the issue of gratuity is concerned, it was never claimed by the petitioner that while working as a Part Time Librarian, she intends to have the benefit of gratuity under the Payment of Gratuity Act, 1972.

9. The least that was expected was to register the claim under the said provisions and to process, which the petitioner has failed to do.

10. Apart from above, even if we consider the claim of the petitioner in the backdrop of the Government Resolution dated 01.09.2018, wherein the post of Part Time Librarian was converted to that of Full Time, the petitioner was never extended the benefits under the said Resolution. It is not the case of the petitioner that such benefits were not extended erroneously, though in law the petitioner was entitled to the same.

11. The only exception that Mr. Sudame, learned Counsel for the petitioner tried to carve out is that without extending monetary benefits, if continuity is granted, the

petitioner's services can be considered for the purpose of payment and gratuity.

12. We are afraid that such contention, if accepted, the same will not only go contrary to the scheme of Rule 19 referred above, but also to the very mandate, viz., the policy reflected in the Government Resolution dated 01.09.2018.

13. That being so, no case for causing interference in extraordinary jurisdiction is made out.

14. The petition, as such, fails and it stands dismissed accordingly. No costs.

(MRS. VRUSHALI V. JOSHI, J.) (NITIN W. SAMBRE, J.)