



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

**WRIT PETITION NO. 4846 OF 2024**

( Manikrao Fulsing Kodape vs. State of Maharashtra and another )

*Office Notes, Office Memorandum of Coram,  
appearances, Court's orders of the directions,  
and Registrar's orders.*

*Court's or Judge's order*

Mr. P.N. Shende, Advocate for the petitioner.  
Mr. S.V. Narale, Assi. Govt. Pleader for Respondent No. 1.  
Ms. Meghna Munshi, Advocate for respondent No.2.

**CORAM : AVINASH G. GHAROTE AND**  
**ABHAY J. MANTRI, JJ.**

**DATE : APRIL 04, 2025**

1) Heard. **Rule.** Rule is made returnable forthwith and heard finally, with the consent of the learned counsel for the parties.

2) 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.

3) 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 the application for VRS given by him ought to have been accepted in view of the dictum laid down in the said judgment. Therefore, 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.

4) In response, Ms. Munshi, 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. However, she does not dispute that the petitioner has completed the qualifying service of 20 years as an 'Untrained Teacher'. Similarly, she does not dispute that the Co-ordinating Bench has already taken the view that if the qualifying service is completed, the pension cannot be denied on the premise that the employee was working as an 'Untrained Teacher'.

5) Ms. Munshi, to substantiate her 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.

6) 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.

7) Similarly, she also relied on the order dated 20/01/2025 passed in Writ Petition No.104/2025 (**Tikaram S/o Daulat Pudo vs. The State of Maharashtra and others**). In this case, the said issue was not dealt with. Therefore, we do not find substance in her contention in that regard.

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*). We therefore allow the petition as follows. Respondent No. 2, the Chief Officer, Zilla Parishad, is hereby directed to release the family pension and other pensionary benefits forthwith in favour of the petitioner, as per the existing

pay scale, i.e., as per the 7th Pay Commission, w.e.f. 2020 as an 'Untrained Teacher'. Accordingly, the petition stands disposed of in the above terms.

11) Rule is made partly absolute in the above terms. No costs.

**(ABHAY J. MANTRI, J.)**

**(AVINASH G. GHAROTE, J.)**

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