



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

WRIT PETITION NO. 5841/2024

- (1) **Kaliram S/o Budhaji Usendi,**
Aged about 56 years, Occ. Nil,
R/o. Botehur, Tah. Dhanora,
District Gadchiroli
- (2) **Baburao Komti Usendi,**
Aged about 57 years, Occ. Nil,
R/o. Aswalpar, Tah. Dhanora,
District Gadchiroli
-**PETITIONER(S)**

// VERSUS //

- (1) **State of Maharashtra,**
Through its Secretary,
Department of Rural
Development, Mantralaya,
Mumbai-32
- (2) **Zilla Parishad,**
Gadchiroli, Through its Chief
Executive Officer,
- (3) **Education Officer (Primary),**
Zilla Parishad, Gadchiroli
-**RESPONDENT(S)**

.....
Shri S.K. Patil, Advocate for the Petitioner(s)
Shri A.S. Fulzele, Addl. GP for the Respondent/State
Shri A.W. Paunikar, Advocate for the Respondent Nos. 2 & 3
.....
CORAM : M.S. JAWALKAR & RAJ D. WAKODE, JJ.
OCTOBER 01, 2025

ORAL JUDGMENT :- (PER:- M.S. JAWALKAR, J.)

. **RULE. Rule made returnable forthwith.** Heard finally
by consent of learned Counsel for the respective parties.

(2) The Petitioners came to be appointed on 09/01/2000
and 01/12/1992 respectively by following the due process of law
as Untrained Primary Teachers, as the D.Ed holder candidates
were not made available from ST category. There were no
complaint against the Petitioners of any sort. Their services were
continued till the order of termination dated 27/05/2020 (Pages
19 & 21). It appears that their services were terminated only on
the ground that they have not acquired the requisite
qualifications of D.Ed.

(3) Learned Counsel for the Respondent - Zilla Parishad
drawn our attention to the communication dated 04/01/2024
issued by the Under Secretary, Maharashtra State wherein the

representations of the Petitioners came to be rejected on the basis of Rule 101 of the Maharashtra Civil Services (Pension) Rules, 1982.

(4) Learned Counsel for the Petitioners relied on the judgment in **Writ Petition No. 6143/2016 (Smt. Umabai W/o Ramkrishna Deshmukh vs. State of Maharashtra & others)** wherein Aurangabad Bench of this Court, in Paragraph Nos. 12 and 13, held as under:-

“12. The Pension Rules read in its entirety nowhere stipulates that if a person is appointed on substantive post by following due selection process and completes 10 years or more service till the date of his superannuation and against whom no departmental or judicial proceedings are pending is disentitle for pension on the ground that on the date the employee was appointed and retires on attaining age of superannuation was untrained.

13. It is not disputed by respondents that, the petitioners were duly appointed on a substantive and sanctioned posts. They have completed the minimum period of qualifying service. In fact, most of the petitioners have completed more than 30 years of service and honourably retired on attaining age of

superannuation. They were treated as regular employees, were paid the regular salary, their appointments are approved as per their qualification. No rule exists in the Pension Rules that would deny the petitioners right to claim pension. The posts these petitioners were holding, were never declared to be non pensionable or that the posts created by it shall not be qualifying service for pension. In absence of any rules, denying the right to get pension to the petitioners will not be permissible.”

(5) The issue involved in the present Writ Petition is squarely covered by the judgment of this Court in **Writ Petition No. 3321/2024 (Shishupal Tukaram Dahagaokar vs. State of Maharashtra & another)**. In the said judgment of **Shishupal Dahagaokar (supra)**, this Court, relied on the judgment in **Writ Petition No. 2035/2022 (Smt. Anjali Wd/o Madhukar Kando vs. State of Maharashtra & another)** wherein the Co-ordinate Bench of this Court, held in Paragraph No. 5, 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.”

(6) In the above judgment, it is held if the qualifying service is complete, the pension cannot be denied on the premise that the employee was working as an Untrained Teacher. Admittedly, as both the petitioners put in more than 20 years of service, they are entitled for grant of pension under Rule 30 of the Rules of 1982.

(7) In the result, we proceed to pass the following order:-

ORDER

(a) The Writ Petition is **allowed**.

- (b) The communication dated 04/01/2024 issued by the Under Secretary, Maharashtra State rejecting the representations of the Petitioners is hereby quashed and set aside.
- (c) The Respondent No. 2 - Chief Executive Officer, Zilla Parishad, Gadchiroli is hereby directed to release the regular pension to the Petitioners along with other pensionary benefits, considering their pay as per the scale of Untrained Teacher within a period of four weeks.

Rule is made absolute in the above terms. Pending Application(s), if any, stand(s) **disposed of.**

(RAJ D. WAKODE, J.)

(M.S. JAWALKAR, J.)