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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9511 OF 2026

Vandana Vijay Rumde
Age: 57 Yrs, Occ. Librarian,
R/o. B-106, Sagar Apartment,
Narayan Nagar Road, S Mumbai ...Petitioner

Versus

1] The State of Maharashtra,
Through the Secretary,
School Education & Sports
Department, Mantralaya,
Mumbai 400 032.]

2] The Accountant General, State of Maharashtra, Mumbai,
Having Office at Pratishtha
Bhavan, 101, M.K. Marg,
Churchgate, Mumbai-20.

3] The Deputy Director of
Education, Mumbai Region,
Charni Road, Mumbai

4] The Education Inspector,
Greater Mumbai North Region,
Chembur, Mumbai.

5] The President/Secretary,
Shivaji Shikshan Sanstha
Ghatkopar, Dist. Mumbai Suburban.400075

6] The Head Master,
S S Multipurpose Technical
High School, Pantnagar,
Ghatkopar (East)
Dist. Mumbai Suburban400075 ...Respondents

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Mr. Satyajeet Anil Rajeshrike, for the Petitioner.

Ms. Pooja M.J. Deshpande, AGP for Respondent - State.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

DATE: 13th OCTOBER 2026

P.C.

1. By this petition, the Petitioner seeks to quash and set aside the order dated 5th May 2026 passed by Respondent No. 4, the Education Inspector, Greater Mumbai (North Region), which rejected her pension proposal under the Maharashtra Civil Services (Pension) Rules, 1982 ('Pension Rules'). She seeks the benefit of the Old Pension Scheme by counting 50% of her part-time Librarian service alongside her full-time service. The Petitioner retired on superannuation on 31st August 2026 as a Librarian at Respondent No. 6, S. S. Multipurpose Technical High School, Ghatkopar.

2. On 13th June 1996, the Petitioner was appointed as a part-time Librarian at Children's Aid Society's Madhyamik Vidyalaya, Mankhurd, a school receiving 100% grant-in-aid since 1985. Respondent No. 4 approved her appointment by an order dated 12th August 1996. She served in that aided post until 1st May 2006. By an order dated 24th April 2006, Respondent No. 4 absorbed her, on the basis of seniority, into the vacant post of full-time Librarian at Respondent No. 6 school, which is also fully aided. She joined there on 2nd May 2006 and served without a

break until her retirement.

3. Respondent No. 6 forwarded the Petitioner's pension proposal on 6th April 2025. By the impugned order, Respondent No. 4 recorded that the Petitioner worked as a part-time Librarian from 13th June 1996 and was absorbed into a full-time post on a 100% grant from 2nd May 2006. On that basis alone, it held that she was not entitled to pension and allied benefits and called for a proposal under the National Pension Scheme in terms of the Government Resolution dated 29th November 2010.

4. We have heard Mr Rajeshirke, learned Counsel for the Petitioner, and Ms Deshpande, learned AGP for the Respondent – State. We have perused the record with their assistance.

5. The Defined Contribution Pension Scheme, introduced by the Government Resolution dated 31st October 2005, applies to employees recruited on or after 1st November 2005. Rule 2(2) of the Pension Rules excludes only such employees from its scope. The Petitioner was recruited on 13th June 1996 to an approved post in a fully aided school. Her absorption into a full-time post in 2006 was not fresh recruitment. It was the transfer of an existing aided employee from one aided post to another, carried out by Respondent No. 4 itself, without any break in service. The impugned order assigns for no reason other than the date of that absorption.

6. The issue is no longer *res integra.* The Aurangabad Bench of this Court in ***Dattatrya Patingrao Borse v. State of Maharashtra*** (Writ Petition No. 8548 of 2022, decided on 25th February 2026), following ***Nilesh Namdev Gurav v. State***

of Maharashtra, 2022 (3) Mh.L.J. 615, held that employees appointed before 1st November 2005 in 100% aided schools are entitled to the Old Pension Scheme unless they have specifically opted for the DCP Scheme.

7. In another recent decision, this Court, in ***Dadasaheb Sada Kadam v. State of Maharashtra*** (Writ Petition No. 11651 of 2023, decided on 11th September 2026), considered a series of decisions on the issue involved in the present matter. Paragraph 36 of ***Dadasaheb Sada Kadam*** (supra) reads thus:

> "36. From the aforesaid discussion, it is clear that various decisions as rendered by this Court have taken into consideration the applicability of the 1981 Rules as also MCS (Pension) Rules to hold that in situations when initially an appointment is on a post which is a part-time post, in an aided institution and subsequently followed by regular appointment, the period spent by the employee on the part-time appointment necessarily would be taken into consideration for the purpose of calculating the qualifying service, for the purpose of pension. Similarly, in case of an employee of a recognized private aided school, appointed during the time when school was not receiving grant and the tenure on such position also would be counted towards the qualifying service for pension, when such an employee retires from a school receiving grant-in-aid. This is in pursuance of the policy decision dated 08 April 2018 in G.R. dated 20 April 2018 as considered by the Full Bench when it held that an employee appointed in a school could be governed by the pension scheme not merely from the time the school starts receiving 100% grant as held by the Full Bench."

8. The Petitioner's case is squarely covered by these decisions. The impugned order thus, cannot be sustained.

9. We accordingly pass the following order:

(i) The order dated 5th May 2026 passed by Respondent No. 4 is quashed and set aside.

(ii) It is declared that the Petitioner is governed by the Maharashtra Civil Services (Pension) Rules, 1982, the Maharashtra Civil Services (Commutation of Pension) Rules 1984 and the General Provident Fund.

(iii) Respondent No. 6 shall submit the Petitioner's pension proposal afresh to Respondent No. 4 within two weeks from the date of this order.

(v) Respondent Nos. 2 and 4 shall process the proposal and sanction the Petitioner's pension and other retiral benefits, with arrears from 1st September 2026, within four weeks thereafter, in accordance with law.

10. The Writ Petition is allowed. No order as to costs.

(DR. NEELA GOKHALE, J) **(G. S. KULKARNI, J.)**