Prasad

# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
## CIVIL APPELLATE JURISDICTION

## WRIT PETITION NO. 2460 OF 2022

Smt. Kiran Ravindra Khaire
@ Bharati Parshuram Bangal
Age: 54 years, Occ. Service,
R/o. Potner, Post Wavediwali,
Tal. Mangao, Dist Raigad ...Petitioner

Versus

1. The State of Maharashtra
through the Secretary,
School Education Department,
Mantralaya Mumbai-400 032.

2. The Deputy Director of Education,
Mumbai Region, Mumbai.

3. The Education Officer (Secondary),
Zilla Parishad, Alibag, Dist. Raigad.

4. The Chairman/Secretary,
Indapur Vibhag Shikshan Prasarak
Mandal, Talashet (Indapur),
Tal. Mangaon, Dist. Raigad.

5. The Head Master,
Navjeevan Vidyamandir and
Late D. G. Tatkare Arts, Commerce
and Science College, Talashet (Indapur),
Tal. Mangaon, Dist. Raigad. ...Respondents

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Mr Lengare Y.B., a/w Sunny Sadafule, for the Petitioner.

Mr B.V. Samant, Addl. GP a/w Ms Reena A. Salunkhe, AGP for Respondent - State.

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

**DATE: 13th OCTOBER 2026**

**P.C.**

1. The Petitioner, who is working as a Librarian in the school run by Respondent No. 4, has approached this Court under Article 226 of the Constitution of India, praying that she be extended the benefit of the Maharashtra Civil Services (Pension) Rules, 1982, the Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and the General Provident Fund Scheme; that her service as a part-time Librarian be taken into account; and that she be granted the benefit of upgradation to the post of full-time Librarian and of the Time Bound Promotion/Career Assurance Scheme.

2. The substantive prayers made in the petition are required to be noted, which read thus:

> "[b] That this Hon'ble Court by way of appropriate Writ, order or direction be pleased to direct the Respondent No.3 to 5 to consider services of the Petitioner from academic year 1994-1995 to 01.04.2006 as a Full Time Librarian and grant the approval to the post of the Petitioner as a Full Time Librarian as per the SS Code and the G.R. dated 28.06.1994 and extend the benefit of pay fixation, increment, old pension and time bound promotion and release the arrears of salary from 01.04.2006 and ancillary benefit.
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> [c] That this Hon'ble Court by an appropriate Writ, Order or direction, be pleased to direct the Respondent No.3 to 5 to allot the provided fund account to the Petitioner in the post of "Librarian" and deduct the contribution of the Petitioner as per the Old Pension Scheme and further be pleased to direct the Respondent No.3 to 5 to merge the contributions already deducted in the earlier PF Account 11909/DCPS Scheme/NPS into the new PF Account and/or return the same to the Petitioner with accrued interest thereon..
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> [d] That this Hon'ble Court by way of appropriate Writ, Order or Direction be pleased to hold and declare that the Petitioner is entitled for the pensionary benefits under the Maharashtra Civil Services (Pension) Rules, 1982, and Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and existing General Provident Fund Scheme (GPF) and necessary direction be given to all the

Respondents to extend the benefits of the Maharashtra Civil Services (Pension) Rules, 1982, and Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and existing General Provident Fund Scheme (GPF) to the Petitioner with all benefits payable thereunder.

[e] That this Hon'ble Court by way of appropriate writ, order or direction, direct the Respondent No.4 and 5 to send the revised proposal of the Petitioner to the Respondent No.3 for extending the benefit of the "Time Bound Promotion" for the period from academic year 1994-1995 to 2006-2007 (12 years) as per the G.R dated 30.04.1998 and further be pleased to direct the Respondent No.3 to consider the said proposal and extend the benefit of "Time Bound Promotion" including the difference of arrears of salary.

[f] Pending the hearing and final disposal of this Writ Petition, the Respondents be directed to extend the benefits of the Maharashtra Civil Services (Pension) Rules, 1982, and Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and existing General Provident Fund Scheme (GPF) to the Petitioner and to deduct from the Petitioner's monthly salary the amount of his contribution towards the Provident Fund and to credit the same to the Petitioner's Provident Fund Account alongwith the contribution of the Respondent No.4, Institution towards the said Pension Scheme and General Provident Fund Scheme.

[g] Ad-interim and interim order in terms of prayer clause (g), hereinabove.

[h] Any further and equitable orders be passed in favour of the Petitioner in the circumstances of the case as may be required."

3. It is the Petitioner's case that, being qualified as B.A., L.T.C., she was appointed as a Part-Time Librarian by Respondent No. 4 by order dated 8th October 1993 with effect from 18th September 1993, and that by the same order her services were regularised with continuity. Respondent No. 3 approved the post. Thereafter, Respondent No. 4 upgraded the post to a full-time Librarian post with effect from 1st April 2006, and Respondent No. 3, by order dated 14th December 2006, approved the full-time post with effect from 1st April 2006.

4. The Petitioner states that the strength of students in Respondent No. 5 School was more than 1000 from the academic year 1994-1995 to 2006-2007, and that, in terms of the G.R. dated 28th June 1994, a part-time Librarian can be upgraded to a full-time Librarian where the total strength of students is a minimum of 1000. She states that the approval ought to have been granted from the academic

year 1994-1995 and relies on the order dated 27th October 2021 passed by this Court in **Urmila Kamble v. State of Maharashtra & Ors.**[1]

5. As regards pension, the Petitioner states that Respondent No. 3 allotted her P.F. Account No. 11909 under the old pension scheme and deducted her contributions, but thereafter she was placed under the Defined Contributory Pension Scheme (DCPS), which has since been converted into the National Pension System (NPS). Her case is that she was recruited prior to 1st November 2005, that her post is on 100% grant-in-aid, and that the Government Resolution dated 31st October 2005 and the Maharashtra Civil Services (Pension) (Second Amendment) Rules, 2005, which apply to those recruited on or after 1st November 2005, therefore do not apply to her.

6. Heard Mr Lengare Y.B., learned counsel for the Petitioner, and B.V. Samant, learned AGP for the State. Learned counsel for the Petitioner submits that the Petitioner's initial appointment predates 1st November 2005 and that the old pension scheme therefore applies to her. She relies on this Court's decision in Nagpur, **Smt. Darshana Adhikrao Gaikwad v. State of Maharashtra**[2] where it was held that Clause 4(b) of the G.R. dated 31st October 2005 makes no distinction between part-time and full-time employees and that 50% of the part-time service is to be counted for determining pensionable service. She further submits that the Petitioner is entitled to the Time Bound Promotion/Career Assurance Scheme under the G.R. dated 30th April 1998.

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**1** Writ Petition (Stamp) No. 57 of 2020 decided on 27th October 2021

**2** Writ Petition No. 5421 of 2017 decided on 9th July 2018

7. The issue in the present matter is no longer res integra. In **Dadasaheb Sada Kadam vs. State of Maharashtra and Ors.**[3], the Division Bench, considering the Maharashtra Civil Services (Pension) Rules, 1982 ("MCS (Pension) Rules"), Rule 19 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 and the several decisions in that regard, took the view that the benefit of part-time service in the manner understood by Rule 57 of the MCS (Pension) Rules is required to be granted. The relevant observations in that regard are required to be noted, which read thus:

> "25. A cumulative reading of the aforesaid rules would indicate that such rules have taken into consideration every possible situation in regard to the counting of qualifying services, which even includes an employee holding a temporary Government servant post rendered without interruption by confirmation, counting of service on contract etc. Also, in regard to the employees who are subsequently brought on a regular pensionable establishment by conversion of their posts, one-half of their previous continuous service is allowed to be counted for pension as provided under Note 1 to Rule 57 of the MCS (Pension) Rules.
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> 26. In our opinion, applying the aforesaid rules, necessarily the part-time service of the petitioner rendered from the year 1995 till 31 March 2006 (i.e. till his upgradation to the full-time post of librarian) was required to be reckoned for the purpose of considering his qualifying service for pension. Thus, notionally such service of 11 years (i.e. from 12 June 1995 till 31 March 2006) will be required to be counted/considered on applicability of Rule 57 of the MCS (Pension) Rules, read with Note 1 by taking into consideration half of such service i.e. period of approximately 5 years 4 months would be required to be notionally accepted and counted towards the petitioner's pensionable service and not from 01 April 2006 as contended by respondent nos. 3 and 4. Accordingly, the period of about more than 5 years 4 months anterior to 31 March 2006 was required to be considered to calculate the qualifying service of the petitioner for grant of pension. This would bring about a situation that the petitioner had become eligible/qualified for pension from or about November 2000, which was certainly prior to the cutoff date 1 November 2005.
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> 27. If this be so, to say that the petitioner's qualifying service would be required to be taken into consideration from 01 April 2006 i.e. the date he was absorbed on the post of full-time librarian, would in fact become contrary to the provisions of the MCS (Pension) Rules as noted by us hereinabove and particularly of Rule 57, Note 1. Thus, in our clear opinion, the petitioner had become entitled for pension under the old pension scheme from the period in or about November 2000."

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**3** Writ Petition No. 11651 of 2023

8. The Petitioner's case is similar. She was appointed as a part-time Librarian with effect from 18th September 1993 and was upgraded to the full-time post with effect from 1st April 2006. Her part-time service from 18th September 1993 to 31st March 2006 is of about 12 years and 6 months, half of which is about 6 years and 3 months. Applying the view taken in ***Dadasaheb Sada Kadam*** (supra), such service is required to be counted under Rule 57, Note 1 of the MCS (Pension) Rules, and the Petitioner, having been appointed prior to the cut-off date of 1st November 2005, cannot be relegated to the DCPS/NPS.

9. The learned AGP on behalf of the State does not dispute the aforesaid legal position. We are thus of the opinion that the respective Education Authorities will need to consider the Petitioner's case, applying the law laid down by this Court in the above-mentioned judgment.

10. In view of the aforesaid settled legal position, the service rendered by the Petitioner as a part-time Librarian from 18th September 1993 to 31st March 2006 in the proper proportion in accordance with law shall be taken into consideration, in terms of Rule 57, Note 1 of the MCS (Pension) Rules, along with the service rendered as a full-time Librarian, for the purpose of computation of qualifying service for pensionary benefits. The Petitioner is entitled to the benefits of the Maharashtra Civil Services (Pension) Rules, 1982, the Maharashtra Civil Services (Commutation of Pension) Rules, 1984, and the General Provident Fund Scheme. The Respondents shall treat the Petitioner accordingly and shall deal with the contributions deducted under the DCPS/NPS in accordance with law, consequent

upon the Petitioner being brought under the old pension scheme.

11. Respondent Nos. 4 and 5 shall submit the necessary proposals to Respondent No. 3-Education Officer within a period of three weeks from today, if not already submitted, and Respondent No. 3 shall decide the same and take further steps in terms of this order within a period of two weeks thereafter. Since the Petitioner's Provident Fund Account is already opened, the concerned Respondent is directed to merge the contributions already deducted in the earlier PF Account 11909/DCPS Scheme/NPS into the new PF Account.

12. Disposed of in the aforesaid terms. No costs.

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