



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11268 OF 2024

1. The State of Maharashtra,
Through Principal Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai 400 032
 2. The State of Maharashtra,
Through its Addl. Chief Secretary,
Department of Finance,
Mantralaya, Mumbai 400 032
 3. The State of Maharashtra,
Through its Addl. Chief Secretary,
Department of General Administration,
Mantralaya, Mumbai 400 032
 4. The Director of Higher Education,
State of Maharashtra,
Having its office at Central
Building, Pune – 1.
- ... Petitioners

Versus

1. Dr. Amit Yadaorao Saraf,
Age 47 years, Occ. Asst. Professor,
C/o. Ismail Yusuf College, Mumbai.
Email id : aysaraf@gmail.com
Contact : 9867942898
2. Shri Rajesh Bhaskar Thakare,
Age 45 years, Occ. Asst. Professor,
C/o. Elphinstone College, Mumbai.
Email id : thakarerajeshb@gmail.com
Contact: 9870741802

3. Shri Sunil Arjun Sonawane,
Age 49 years, Occ. Asst. Professor,
C/o. Government College of Education, Mumbai.
Email id : sunilsonawane_369@gmail.com
Contact: 9987089507
4. Smt. Nita Laxmanrao Choure,
Age 55 years, Occ. Asst. Professor,
C/o. Government College of Education, Mumbai.
Email id: choure.nita@gmail.com
Contact: 8999739257
5. Dr. Sushama Raju Ambadekar,
Age 49 years, Occ. Associate Professor,
C/o. Institute of Science, Mumbai.
Email id : sushama72ambadekar@gmail.com
Contact: 9869080372
6. Dr. Rameshwar Shekubhau Padme,
Age 45 years, Occ. Associate Professor,
C/o. Government College of Education,
IASE, Aurangabad.
Email id : rpad4959@gmail.com
Contact: 9423854959
7. Shri Charandas Yuvaraj Kamble,
Age 53 years, Occ. Asst. Professor,
C/o. S.M.T. Government College of Education,
Kolhapur
Email id : kamble.charandas@gmail.com
Contact: 9892228045
8. Radhika Iyer,
Age 42 years, Occ. Asst. Professor,
C/o. Sydneham College, Mumbai.
Email id : radhikarajiyer@gmail.com
Contact: 9892092265
9. Shabana Khan,
Age 46 years, Occ. Lecturer,

C/o. Ismail Yusuf College, Mumbai.
Email id : shabanasarang27@gmail.com
Contact : 9588057344

.... Respondents

Ms. Kavita N. Solunke, Additional Government Pleader a/w Mr. P. G. Sawant, AGP, for the Petitioner-State,
Adv. Yashodeep Deshmukh a/w Adv. Vaidehi Pradeep, for Respondent Nos.1 to 8.
Mr. Mihir Desai, Senior Advocate a/w Adv. Devyani Kulkarni, for Respondent No.9.
Mr. Vilas Sakpal, Junior Administrative Officer, Mumbai present in the Court.

**CORAM : M. S. KARNIK &
S. M. MODAK, JJ.**

DATE : 9th FEBRUARY, 2026

ORAL JUDGMENT (PER M. S. KARNIK, J.) :

1. Heard learned counsel for the parties.
2. The challenge in this Petition by the State of Maharashtra is to the impugned order dated 23rd June 2023 passed by the Maharashtra Administrative Tribunal ('Tribunal', for short) in Original Application No.805 of 2021 ('OA', for short) allowing the OA of the Respondent Nos.1 to 9.
3. During the pendency of the Petition, the Respondent Nos.1 to 8 were duly appointed as Professors. Learned Additional Government Pleader on instructions submitted that so far as

Respondent Nos.1 to 8 are concerned, the Petitioners are not pressing the challenge to the order of the Tribunal. The learned Additional Government Pleader in all fairness on instructions stated that the Respondent Nos.1 to 8 are eligible for the benefits under the Government Resolution ('GR', for short) dated 2nd February 2024 and that further consequential orders will be issued expeditiously. Hence, the challenge of the State of Maharashtra to the order passed by the Tribunal so far as Respondent Nos.1 to 8 is concerned is dismissed. The order passed by the Tribunal to the extent of Respondent Nos.1 to 8 is confirmed.

4. The learned Additional Government Pleader was at pains to point out that the case of the Respondent No.9 is distinguishable and so far as the Respondent No.9 is concerned, the Tribunal was not justified in granting the relief in terms of the Old Pension Scheme. In the submission of learned Additional Government Pleader, the Old Pension Scheme was applicable to those employees who were in service prior to the issuance of the GR dated 31st October 2005. It is pointed out that the Respondent No.9 was working on ad-hoc basis from 22nd August 2000 on the post of Lecturer on a full time basis for the subject of Commerce at

the Sydenham College. It is further submitted by learned Additional Government Pleader that the advertisement for filling up of the post of the Lecturer on full time basis in the Junior College at the Sydenham College was issued by the Maharashtra Public Service Commission ('MPSC', for short) for the first time in the year 2009. Though the Respondent No.9 was working on ad-hoc basis since 22nd August 2000 continuously, it is only pursuant to the advertisement issued by the MPSC in the year 2009 that the Respondent No.9 applied and finally she was selected in the year 2012. It is thus the contention of learned Additional Government Pleader that the Respondent No.9 is not covered by the Old Pension Scheme.

5. We have perused the order of the Tribunal. The Respondent No.9 was appointed on 22nd August 2000 on ad-hoc basis on the vacant post of a Lecturer on a full time basis for the subject of Commerce at the Sydenham College. The Respondent No.9's appointment on ad-hoc basis is through a Selection Committee. It is pertinent to note that the Petitioners in their affidavit-in-reply filed before the Tribunal have categorically stated that so far as the Respondent No.9 is concerned, she has been

working on ad-hoc basis from the year 2000 without any service break. It is further the stand of the Petitioners before the Tribunal that the service from the year 2000 shall be calculated only for Career Advancement Scheme (CAS)/One Time Bound Promotion ('OTBP', for short) benefits and not for any pensionary benefit arising from ad-hoc service as well as from the Old Pension Scheme. Thus, we find that for the purpose of OTBP, the Respondent No.9's ad-hoc services have been regarded from the initial date of appointment i.e. 22nd August 2000 but not for the purpose of pensionary benefits.

6. While granting the benefit of the Old Pension Scheme of 2005 to the Respondent Nos.1 to 8, the State Government was of the view that since the advertisement for filling up the post of Professors was issued by the MPSC prior to the coming into force of the GR regarding the applicability of the Old Pension Scheme in the year 2005, the Respondent Nos.1 to 8 are eligible to count their services from the initial date when they were appointed on an ad-hoc basis prior to the year 2005. It is pertinent to note that the Respondent Nos.1 to 8 were also appointed on ad-hoc basis as Professors in the Degree College prior to the coming into force of

the Old Pension Scheme GR dated 31st October 2005. The Respondent Nos.1 to 8 are actually appointed on regular basis post selection after the GR of 2005. The distinction of the Respondent Nos.1 to 8's case and that of the Respondent No.9 is sought to be made on the ground of the date of issuance of the advertisement only because the advertisement in respect of Respondent Nos.1 to 8 is issued prior to the GR of 2005, the ad-hoc services rendered by the Respondent Nos.1 to 8 prior to the year 2005 are taken into consideration for the purpose of grant of pensionary benefits, however, insofar as the Respondent No.9 is concerned, the benefit of ad-hoc services prior to the year 2005 is refused. There is hardly any merit in the stand of the Petitioners that the advertisement issued by MPSC for the post occupied by the Respondent No.9 is after the GR of 2005 and thereby the Respondent No.9 is not entitled to have her services on ad-hoc basis considered for the purpose of pensionary benefits.

7. In our opinion, such a distinction is absolutely unwarranted and unjustified. We do not find any difference in the cases of the Respondent Nos.1 to 8 and in that of the Respondent No.9 since all of them were appointed on ad-hoc basis much prior

to the issuance of the GR of 2005. Though the MPSC issued the advertisement so far as the Respondent Nos.1 to 8 are concerned, prior to 2005, the actual selections were made much later and the Respondent Nos.1 to 8 were appointed after the Old Pension Scheme came into force. It is thus seen that even the Respondent Nos.1 to 8 continued on an ad-hoc basis even after coming into force of the GR of 2005, so also the Respondent No.9.

8. So far as the Respondent No.9 is concerned the MPSC issued the advertisement in the year 2009. The Respondent No.9 was selected in the year 2012. The post on which the Respondent No.9 was continuously working was vacant right from the initial date when she was appointed on an ad-hoc basis i.e. from 22nd August 2000. The Respondent No.9 admittedly worked continuously on an ad-hoc basis as a Lecturer without any break till her services were regularised as a Lecturer in the year 2012. The Respondent Nos.1 to 8, like the Respondent No.9, were also appointed on a regular basis pursuant to the selection only after the GR of 2005 came into force till which date all of them continued on ad-hoc basis. Therefore, the attempt on the part of the State Government to create such an artificial distinction on the

basis of date of issuance of the advertisement by the MPSC is completely untenable and this is a fit case where we are inclined to hold that equals are treated unequally and therefore the stand of the Petitioners amounts to hostile discrimination.

9. Mr. Mihir Desai, learned Senior Advocate for the Respondent No.9 in support of his submission relied upon the decision of this Court in similar circumstances, which held in **Dr. Babasaheb Mundhe vs. State of Maharashtra and Others**¹ that the Petitioner therein to be reckoned from the first day of joining for the entitlement of the Old Pension Scheme benefits. This decision squarely applies in the present facts.

10. Having perused the order of the Tribunal, we do not find any reason to interfere with the order. We agree with the reasoning of the Tribunal which allows the OA.

11. The Writ Petition is dismissed.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)

¹ Writ Petition No.12271 of 2022 decided on 27.03.2025.