



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

WRIT PETITION No.3378 OF 2025

1. Shri. Saurabh S/o Kamalkishor Agarwal,
Aged about 40, Occ. Service,
R/o Govindpur, Shashtri Ward,
Tah. And Dist. Gondia.
2. Ku. Sadhana D/o Virendrasingh Lilhare,
Aged about 45 years, Occ. : Service,
R/o Murpur, Gondia, Tah. And Dist. Gondia.
3. Ku. Chitra D/o Rambhau Thengari,
Aged about 45 Major, Occ. Service,
R/o Civil Line, Tadgaon Road,
Arjuni Morgaon, Gondia,
Tah. And Dist. Gondia. : PETITIONERS

...VERSUS...

1. State of Maharashtra,
through General Administrative Department,
Mantralaya, Mumbai-32,
2. The Chief Executive Officer,
Zilha Parishad, Gondia,
having its office at Z. P. Administrative Building,
Amgaon Road, Gondia,
3. The Deputy Chief Executive Officer,
General Administration Department,
Zilha Parishad, Gondia,
having it's Office at Z.P. Administrative Building,
Amgaon Road, Gondia. : RESPONDENTS

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Mr. Kaustub Deogade, Advocate for Petitioners.
Mr. H.D. Futane, Assistant Government Pleader for Respondent No.1.
Mr. P.K. Raulkar, Advocate for Respondent Nos.2 and 3.

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CORAM : **SMT. M.S. JAWALKAR AND**
NANDESH S. DESHPANDE, JJ.
RESERVED ON : **17th APRIL, 2026.**
PRONOUNCED ON : **24th APRIL, 2026.**

JUDGMENT : (Per : NANDESH S. DESHPANDE, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel counsel appearing for the parties.

2. Present petition challenges order dated 16.05.2025 passed by the respondent No.3. It further prays for a declaration that the petitioners are eligible and qualified for the pensionary benefits of Maharashtra Civil Services (Pension) Rules, 1982.

3. The facts which are more or less undisputed can be stated as under :

The petitioners were selected on compassionate ground for the post in Health Department in the respondent Zilla Parishad and were called for verification of document on 10.06.2004 and accordingly appointed on 15.04.2006. The contention of the petitioners is that the State of Maharashtra vide Government Resolution dated 02.02.2024 has made it clear that the employees, who joined the Government service on or after 01.11.2005 shall be entitled for benefit of pension under the Maharashtra Civil Services

(Pension) Rules, 1982. It is the contention of the petitioners that the verification of the documents of the petitioners were made prior to 01.11.2005 and they were appointed on compassionate grounds. It is also the contention that the document verification amounts to interview and, therefore, the petitioners are entitled for the benefits as prayed for. However, by way of impugned communication dated 16.05.2025, the claim has been rejected. The said decision has been impugned in the present petition.

4. We have heard Mr. Kaustubh Deogade, learned counsel for the petitioner, H.D. Futane, learned Assistant Government Pleader for the respondent No.1 and Mr. P.K. Raulkar, learned counsel for the respondent Nos.2 and 3.

5. Mr. Kaustubh Deogade learned counsel for the petitioners submits that the order dated 16.5.2025 is arbitrary and bad in law and submits that the respondents ought to have appreciated that the document verification of the petitioners was done prior to the cut off date i.e. 01.11.2005. It is, therefore, his submission that this fact makes them eligible for pensionary benefits and, therefore, the action is unsustainable in law. He relies on a judgment of this Court passed in Writ Petition No.3715/2022 and judgment of the Principal seat in Writ Petition No.14481/2023

to buttress his submission.

6. Per contra, learned counsel appearing for the respondent Nos.2 and 3 opposed the contentions on various grounds. It is his submission that the appointment order dated 15.04.2006 has been accepted by the petitioners without any demur which contemplate that the petitioners would not be entitled for the new pension scheme. He further submits that there has been inordinate delay in filing the petition and there is no explanation for the same in the writ petition.

7. On merits, he submits that the reliance placed on the Government Resolution dated 02.02.2024 is misconceived. He further submits that the Government Resolution dated 01.10.2024 specifically clause 2 sub-clause (1) thereof contemplates that the persons, whose names were in the select list prior to 01.11.2005 but were appointed after the said date i.e. 1.11.2005, for those employees the benefits of the said Government Resolution would not be applicable. He, therefore, prays for dismissal of the petition.

8. Having considered the contentions canvassed by the learned counsels for the parties, we are of the considered opinion that the order impugned passed on 16.05.2025 is perfectly legal and valid. Only because the petitioners were made to submit

documents on 10.06.2004, cannot clothe them with a vested right of availing benefits under the Old Pension Scheme more particularly when admittedly the appointments were after the cut off date i.e. 01.11.2005. It is an admitted fact on record that the petitioners were appointed on 15.04.2006 and now they are questioning the action of refusing to extend the benefits in the year 2025. In our view, the claim of the petition apart from it being unmerited is grossly delayed. There is no explanation in the petition for the huge delay caused in filing the said petition. Furthermore, as has been rightly pointed out by the learned counsel appearing for the respondent Zilla Parishad, the petitioners have accepted the said condition without any demur and has continued to work on the said post since 2006. Thus, the petitioners have acquiesced and, therefore, cannot claim any relief from this Court on that count also.

9. As far as the judgment in Writ Petition No.3715/2022 (Rahul Laxmikant Kuntamwar) of this Court is concerned, in the said matter the advertisements were issued prior to 01.11.2005. However, the appointment orders of the petitioners were issued after the cut off date that is 01.11.2005 on which date Defined Contributory Pension Scheme ("D.C.P.S." in short) was made

applicable to all Government servants as per Government Resolution dated 31.10.2005 and the Maharashtra Civil Services (Pension) Rules, 1982. However, after the said judgment was passed on 28.06.2023 there is a Government Resolution dated 01.10.2024 taking care of the contingencies as in the case of petitioner and more particularly the fact that the petitioners were appointed on compassionate basis.

10. As far as the judgment in Writ Petition No.14481/2023 is concerned, even the said judgment does not take the case of the petitioner any further.

11. In that matter the appointments were approved prior to the cut off date. No material is placed to show that their names were finding place in the select list and not on the waiting list.

12. Government Resolution dated 2.2.2024 specifically contemplates of an option to the employees for National Pension Scheme. Nothing is placed on record by the petitioners to show that such option was asked for and exerted. Even clause 2(1) also specifically provides for extending benefits only to those employees who have exerted the option as per Government Resolution dated 2.2.2024. Further the said clause also contemplates that the benefit of Old Pension Scheme would not be extended to those employees

whose names were in select list before 1.11.2025 but were appointed thereafter on compassionate basis. In that view of the matter, the challenge in the petition fails, it being misconceived and highly belated.

13. The petition is without any merit and is liable to be rejected.

14. The Writ Petition is accordingly rejected.

15. Rule is discharged.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)