



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

WRIT PETITION NO. 5259/2025

Vijay S/o Ramdas Thakre,
Aged about 55 years, Occ.
Service, R/o. Pratap Nagar,
Ward No. 10, Old Tukdoji
Vidyalaya, Wardha, District
Wardha

.....PETITIONER(S)

// VERSUS //

- (1) The State of Maharashtra,
Through its Secretary,
Education & Sports Mantralaya,
Mumbai-400 032
- (2) The Director of Education,
Maharashtra State, Pune-1
- (3) Deputy Director of Education,
Nagpur Division, Nagpur
- (4) Education Officer (Secondary),
Zilla Parishad, Wardha
- (5) Swayambhu Siddheshwar
Bahuuddeshiya Warkari
Sanstha, Through its Secretary,
Belgaon (Dha.) Tahsil-Selu,
District Wardha

(6) Rashtriya Samajik Vidyalaya,
Through its Headmaster, Mude
Layout, Gajanan Nagar, Pipri
(Meghe), Tahsil-Wardha,
District Wardha

.....RESPONDENT(S)

.....
Shri A.D. Mohgaonkar, Advocate for the Petitioner(s)

Shri S.V. Narale, AGP for the Respondent/State

Shri A.G. Moharir, Adv h/f Shri B.G. Kulkarni, Adv for the
Respondent Nos. 5 & 6
.....

CORAM : M.S. JAWALKAR & NANDESH S. DESHPANDE, JJ.

CLOSED FOR JUDGMENT ON :- JANUARY 29, 2026

JUDGMENT PRONOUNCED ON :- FEBRUARY 02, 2026

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

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

(2) By this Petition, the Petitioner is seeking quashment
of the impugned order dated 31/03/2025 passed by the
Respondent No. 4 - Education Officer (Secondary), Zilla
Parishad, Wardha, so also seeking direction to the Respondent
No. 4 to permit the Petitioner to open the General Provident
Fund account as per the old pension scheme and grant the
account number to the Petitioner.

(3) It is the contention of the Petitioner that he came to be appointed as part-time Librarian on 25/01/1999 having requisite qualification. The Respondent No. 4 granted approval to the appointment of the Petitioner on 19/02/1999. On 13/04/2023, a Government Resolution was issued to convert the post of part-time Librarian to the post of full-time Librarian (Annexure-5). On 22/07/2023, the Respondent No. 5 – Society passed a Resolution granting benefit of the Government Resolution dated 13/04/2023 to the Petitioner and converted the post of Petitioner as full-time Librarian and issued the order to that effect. Accordingly, on 15/04/2023, the Petitioner joined on the post of full-time Librarian. The Education Officer has also granted approval to the converted post of Librarian. As such, the Petitioner continued in the converted post since 15/04/2023.

(4) On 02/09/2024, the Deputy Director of Education granted permission to the schools in his region for drawing salary as the full-time Librarian on the basis of the decision of the Government and also considering the available full time posts. The name of the Petitioner is reflecting at Serial No. 9 in Wardha District under the order issued by the Deputy Director

of Education. The Petitioner is claiming his admission to the General Provident Fund in view of the conversion of the post. There is an order of pay fixation from the date of appointment of the Petitioner i.e. 27/01/1999 made by the Respondent No. 6 as per the instructions given in the Government Resolutions dated 13/04/2023 and 07/11/2023. The Respondent No. 6 – Headmaster forwarded the Application and the pay fixation done by the Accounts Officer to the Superintendent, Pay Unit, Wardha for grant of permission to open the General Provident Fund account. However, on 31/03/2025, the Respondent No. 4 – Education Officer proceeded to pass the impugned order rejecting the claim of the Petitioner of pension and pensionary benefits on the ground that as the post is converted after 01/11/2005, the Petitioner shall be governed by the new pension scheme and cannot be given the account number under the GPF. The said order dated 31/03/2025 is the subject matter of challenge in the present Writ Petition.

(5) Learned Counsel for the Petitioner contends that the Petitioner has completed the part-time services approved, recognized and with 100% grants-in-aid from 20/01/1999 to

13/04/2023 i.e. 24 years & 3 months approximately and is working as full-time Librarian from 15/04/2023. In view thereof, half of the services of the part-time period needs to be considered and has to be counted as per the Note No. 1 of Rule 57 of the Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as “the said Rules”) as pensionable service. After considering half of the service as a part-time Librarian and 4 years of service as full-time Librarian, it is approximately 16 years. As per the said Rules, the qualifying service for pension is of 10 years. In view thereof, the contention of the Petitioner is that he is entitled for old pension scheme along with GPF gratuity etc.

(6) Learned Counsel for the Petitioner, in support of his contentions, relied on the judgment of this Court in **Shivappa S/o Bhujangappa Bembale vs. State of Maharashtra & another**, 2005(3) Mh.L.J. 709, wherein this Court, in Paragraph No. 6, held as under:-

“6. The only crux in the present matter as the Zilla Parishad authorities has rejected the claim of present petitioner relying on Note 2, however, considering the factual aspect from the present case as

it is seen that the initial appointment order of the present petitioner as part time Peon is 24-7-1970; he continued as part time Peon till 10-7-1990 and thereafter by order dated 6-7-1990 the petitioner was taken on regular cadre in the pay scale of Rs. 750-12-870-DR-14-940 by the Chief Executive Officer, Zilla Parishad. The order passed by the Chief Executive Officer, Zilla Parishad is also on record and the very wording of the said order safely makes it clear that the persons who are working as part time and salary being paid from contingency, those persons are being taken on regular cadre in class-4 and being fixed in the pay scale of Rs. 750-12-870-DR-14-940. After going through the order dated 7-7-1990 it can be said that it is the fresh order giving regular employment to the petitioner, however, as he was already worked as part time Peon and being paid aid from contingency the services being regularised in the pay scale in class-4 servant. We have gone through the Note 1 and Note 2 of Rule 57 and we find that the Zilla Parishad has wrongly applied Note 2 in the present matter while rejecting the claim of the petitioner to grant pension, as in fact in the present case, Note 1 of Rule 57 is applicable. Therefore, we find that the claim as set up by the present petitioner that he is entitled for pensionary benefits, is definitely justified.”

(7) Learned Counsel for the Petitioner further relied on the judgment passed by this Court in **Writ Petition No. 3288/2017 (Sou. Aruna W/o Rajiv Joshi vs. State of Maharashtra & others)** wherein this Court, by relying on the judgment in **Shivappa S/o Bhujangappa Bembale (supra)**, held that half of the service rendered by the Petitioner therein on part-time basis shall be taken into consideration while calculating the qualifying service rendered by the Petitioner. Similar view is taken in the judgment in **Writ Petition No. 1603/2020 (Rajendra Vishwanath Moon vs. The State of Maharashtra & others)**.

(8) *Per contra*, learned AGP submitted that as the appointment of the Petitioner is of 2023, i.e. after the date of conversion of the post, new pension scheme will be made applicable to the Petitioner and there cannot be any GPF account. Learned AGP relied on the judgment in **Writ Petition No. 14007/2017 (Mrs. Rajani Rajan Dixit vs. State of Maharashtra & others)**, however, reliance on the said judgment is misplaced. In the said matter before the Principal Seat, the Petitioners who were retired teachers were seeking direction to

grant the pension and other benefits. However, the Petitioners were working as part-time Teachers in Chattrapati Shivaji Night Junior College. The Bench at Principal Seat, in view of Clause 70.4 of the Secondary School Code, 2015, held that the part-time employees and those working in the Night School are not eligible either to the provident fund scheme or to the pension scheme. This Court, considered the judgment in **Vijaysingh Ramsingh Patil vs. The State of Maharashtra** which was considering a case of entitlement of benefit of pension scheme/provident fund scheme to the part-time Librarians **who continued to work on the post of part-time Librarian till their retirement**, and therefore, it was held that they were not entitled to the benefit of pension. This Court, in the matter of **Rajni Rajan Dixit (supra)**, held in Paragraph No. 22, as under:-

“22. All the decisions relied by the Petitioner are in respect of employees/teachers who were working as full-time teachers, who were given benefit of regular pay-scale. The initial service rendered by such teacher as part-time teachers were clubbed or added for the purpose of calculating qualifying service for pension. We have held that the Petitioner was a part-time teacher in Night Junior College, as such the decisions would not be applicable

to the case of the Petitioner and the same are distinguishable on facts. Petitioner retired from service as on 31.03.2014, the Government Resolution dated 17.05.2017 relied by the Petitioner and the Government Resolution dated 30.06.2022 relied by the learned Additional G.P., being subsequent would not be attracted to the case of the Petitioner. ”

(9) In view of the above finding, it is clear that the employees who were working as full-time teachers or employees who were given the benefit of regular pay scale, the initial service rendered by such part-time employees were clubbed or added for the purpose of calculating the qualifying service for pension. In view of the ratio laid down by this Court in the above referred judgments, in our considered opinion, the impugned order dated 31/03/2025 is erroneous and does not sustain the scrutiny of law, and hence, it is required to be quashed and set aside. Insofar as the Application of old pension scheme is concerned, the initial date of appointment of the Petitioner is required to be considered and not the conversion of temporary post in permanent post. As such, the Petitioner is entitled for pension as per the old pension scheme and also the benefits like GPF and gratuity etc.

(10) Hence, the following order is passed:-

ORDER

- (a) The Writ Petition is **allowed**.
- (b) The impugned order dated 31/03/2025 passed by the Respondent No. 4 – Education Officer (Secondary), Zilla Parishad, Wardha is hereby quashed and set aside.
- (c) The Respondent Nos. 1 to 4 are directed to consider the half service rendered by the Petitioner as part-time Librarian along with the period for which he had worked as full-time Librarian while calculating the qualifying service of the Petitioner for the purpose of retirement and pensionary benefits as per the old pension scheme. This exercise shall be done within a period of four weeks from the date of receipt of this judgment.

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

(NANDESH S. DESHPANDE, J.)

(M.S. JAWALKAR, J.)