

**(2025) 09 BOM CK 0351**  
**In the Bombay High Court**  
**Case No : Writ Petition No. 3122 Of 2023**

Vinod Kshirsagar Wasnik

APPELLANT

Vs

State of Maharashtra

RESPONDENT

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**Date of Decision :** 25-09-2025

**Acts Referred:**

**Citation :** (2025) 09 BOM CK 0351

**Hon'ble Judges :** Ashwin D. Bhobe, J; Ravindra V. Ghuge, J

**Bench :** Division Bench

**Advocate :** Devyani Kulkarni, Sanskruti Yagnik, Aditya R. Deolekar

**Final Decision :** Allowed

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## Judgement

Ravindra V. Ghuge, J

1. This Petition is listed in the Special Pension Category Board.
2. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.
3. The Petitioner has put forth prayer clauses (a) and (b), as under :  
  
"a. That this Honorable Court be pleased to issue a writ of mandamus and/or any other order or direction in the nature of mandamus to direct the Respondent No.1, 2 & 3 to grant and release the retirement benefits to the Petitioner including his pension and gratuity etc. on the basis of his last drawn salary considering his service period from 24.07.1991 to 31.03.2022 as per the provisions of the old pension scheme of 1983, with interest at the rate of 18% per annum from the date of superannuation till the actual payment of the same and by treating the Petitioner as fully qualified from his initial date of appointment and by treating his last drawn wages as the wages on which Pension and other retirement dues will be computed.  
  
b. That this Honorable Court be pleased to issue a writ of mandamus and/or any

other order or direction in the nature of mandamus to direct the concerned Respondents to grant the retirement benefits to the Petitioner including pension and gratuity as per the provisions of the old pension scheme of 1983 which was brought into effect vide the GR dated 21.07.1983 and by treating him as fully qualified from the date of his initial appointment i.e., 24.07.1991 and treating his last drawn salary as the salary which will be used for computing his pension”.

4. We have perused the Petition paper book in the light of the submissions of the learned Advocates for the respective sides.

5. Respondent Nos. 4 and 5, College are not the contesting Respondents and they have not taken a stand against the claim of the Petitioner.

6. The dates and sequence of events in this matter, are as under :

(a) On 24th July 1991, the Petitioner was appointed on a part-time basis at D.C. Deshmukh Commerce College, Raigad and continued there until 20th April 1992, on an aided and sanctioned post;

(b) The services of the Petitioner were approved by the University of Mumbai by order dated 13th November 1991;

(c) On 01st July 1992, the Petitioner was appointed on a full-time basis at Respondent No.4 College pursuant to an advertisement and an interview by a Local Selection Committee, as the University Selection Committee was not available. The Petitioner continued there until 20th April 1993, on an aided and sanctioned post;

(d) The services of the Petitioner as a full-time teacher were approved by the University of Mumbai by order dated 10th August 1994;

(e) By order dated 20th June 1993, the Petitioner was continued in service on the said post, and the services of the Petitioner were approved with effect from 21st June 1993, by the University of Mumbai by order dated 26th April 1994;

(f) Pursuant to the advertisement dated 6th July 1993, the Petitioner was appointed as a full-time teacher at Respondent No.4 College vide appointment order dated 27th October 1993;

(g) After the University Selection Committee became available, the Petitioner was interviewed by a duly constituted University Selection Committee, and the services of the Petitioner were confirmed on the full-time post by order dated 20th January, 1998. Approval for the said appointment was granted as per Circular dated 1st March 1996;

(h) On 27th July 1998, the Petitioner was granted Career Advancement Scheme (CAS) benefits of senior scale, and thereafter, on 27th April 2004, the Petitioner was granted the benefits of the Selection Grade;

(i) Subsequently, upon completing three years in the pay scale of Rs. 12,000 – 18,300 on 1st January 2006, the Petitioner was designated as an Associate

Professor, and his pay was fixed in the pay band of Rs. 37,400–67,000. He was granted increments in accordance with the recommendations of the Fifth, Sixth, and Seventh Pay Commissions;

(j) On 31st March 2022, the Petitioner superannuated. Prior thereto, the proposal for pension was submitted to Respondent No.3 on 10th December 2021;

(k) On 23rd August 2022, Respondent No.3 directed Respondent No.4 to send the proposal as per the Government Resolution (GR) dated 29th October, 2021;

(l) On 23rd September 2022, Respondent No.4 again submitted the pension proposal as per the earlier calculations;

(m) On 17th September 2022, the Petitioner sent a representation to Respondent No.3, but no further reply has been received from Respondent No.3.

(n) The said GR dated 29th October 2021 states that the teachers appointed between 23rd October 1992 to 03rd April 2000 who have not acquired the qualification of NET/SET shall be eligible to receive pension as per the old pension scheme of 1992.

(o) The University issued a Circular dated 1st March 1996, following the UGC Regulations dated 19th September 1991, which were accepted by the State of Maharashtra on 23rd October, 1992. This Circular exempted Lecturers appointed prior to 19th September 1991, from the NET/SET requirement. Additionally, the Government Resolution dated 27th June 2013, regularized the services of teachers who did not possess NET/SET, but were appointed between 23rd October 1992 and 3rd April 2000;

(p) A subsequent Government Resolution dated 29th October, 2021 clarified that clause 8 of the GR dated 27th June 2013, which made the new DCPS applicable, was deleted;

(q) By judgment dated 3rd October, 2018 in Writ Petition No. 13166 of 2017 (Shri Maruti Dattatraya Patil Vs. The State of Maharashtra and Ors.), it was held that the Petitioner, who was appointed as a Junior Clerk on 10th June, 1971 and as a Full-Time Lecturer on 20th September 1999, was entitled to pension based on the last drawn salary. The date of appointment for pension purposes was construed as 20th September, 1999. The Special Leave Petition challenging this order was dismissed on 1st July 2019;

(r) On 9th April 2019, this Court allowed Writ Petition No. 755 of 2019 (Ranpise Vijaykumar Baburao vs. The State of Maharashtra & Ors.), considering the appointment of the Petitioner as a Lecturer on 14th August, 1995 in the light of the University Circular dated 27th March 2010, which exempted certain teachers from acquiring NET/SET qualifications. Accordingly, the Petitioner's appointment date 16th August 1995, was taken into consideration;

(s) In the same order dated 9th April 2019, the contention that the Petitioner did not possess NET/SET qualifications was rejected, and the Court followed the

earlier judgment in *Shri Maruti Dattatraya Patil (supra)*. It was recorded that the Petitioner's appointment was approved and that he was granted the necessary exemption.

7. The Petitioner, appointed on 24th July 1991, received CAS benefits in 1998 and thereafter, in 2004, despite not possessing the NET/SET qualification.

8. In the affidavit in reply filed by the Joint Director of Higher Education, Konkan Region, Panvel, dated 25th June, 2024, this Petition was strongly opposed. It was contended that there is a difference between a regular employee appointed to a substantive post and a temporary employee who is appointed without following the due process of selection, and not in accordance with the recruitment rules of the U.G.C. and the State Government. It was further submitted that unqualified persons are often appointed on a temporary basis. Therefore, the services rendered by the Petitioner as a non-qualified lecturer, cannot be counted for the purpose of pension or the quantum thereof. As such, the claim of the Petitioner for including his temporary service in the regular establishment is unsustainable.

9. It is further contended that the reliefs sought by the Petitioner for the computation of part-time or temporary services, which are not in continuation of his regular service, are not valid. The Petitioner was automatically relieved from service upon the completion of his initial appointment. The Petitioner became qualified as a full-time Lecturer only on 27th June, 2013, as per the Government Resolution dated 27th June, 2013. Therefore, even if the Petitioner's service is to be considered, it can only be reckoned from 27th October, 1993, and not from the date of his initial appointment, which is the basis of his claim for pension.

10. A reference was made to the directives of the Hon'ble Supreme Court and the order of this Court dated 23rd December 2015, delivered in Writ Petition No. 2082 of 2013, wherein it was held that teachers who have not acquired NET/SET qualifications and were appointed between 24th October, 1992 and 3rd April, 2000 are not entitled to Career Advancement Scheme (CAS) benefits. The Petitioner was wrongly granted such benefits.

11. It is undisputed that the petitioner was granted CAS benefits in 1998 and again in 2004, and no order has been passed by the State Authorities declaring that the Petitioner was wrongly paid these benefits.

12. In view of the above, following two issues are put to rest :-

Firstly, the University of Mumbai issued an approval order dated 20th January 1998, to a chart listing out total of 16 persons, which specifically mentions the Petitioner at Serial No.5, as a full-time Lecturer in

Mathematics with probation commencing from 27th October, 1993 for which the University granted approval. On the internal page three of the said document, at clause (iv), the University refers to the Petitioner's case and observes as follows:

"iv) the appointments mentioned at Sr. Nos. 1,2,4 & 5 have been approved by

the University on probation as they have been appointed prior to 19.9.91 as per Circular No. CONCOL/VCD/116, dated 1.3.96.”

Secondly, the fact that the Petitioner was granted CAS benefits in 1998 and again in 2004, indicates that his service was reckoned from July 1992, and the CAS benefits were calculated accordingly, thereby entitling him to those benefits.

13. The above factors can neither be ignored nor glossed over by contending that the University committed a mistake. The Petitioner was granted an exemption as long ago as in the mid 1990s, since he did not have the NET/SET qualification and was appointed prior to the NET/SET requirement becoming mandatory. Similarly, the CAS benefits he received in 1998, were granted 27 years ago. There is no allegation against him that he orchestrated the exemption order or manipulated the order extending CAS benefits. There is no claim that the Petitioner acted with an oblique motive or engaged in deceitful conduct. Additionally, no order has been passed cancelling the exemption granted to him or revoking the CAS benefits already extended.

14. Such cases have to be treated as special cases with peculiar facts. While granting approval, because the University did not have a constituted committee, the approval was granted on his temporary appointment by acknowledging that the Petitioner has been appointed on the said date and, the formality of a re-interview was conducted by the University constituted committee, six months thereafter.

15. Recently, the Full Bench of this Court, in *Vasantrao Naik Marathwada Krishi Vidyapeeth v. Ganpat Maroti Sutare and another* AIR Online 2024 BOM 687 in the light of the Government Resolution dated 2nd February, 2024, has interpreted the Government Resolution dated 1st November, 2005 and held that employees whose selection and appointment process commenced prior to 31st October 2005, but who were actually issued appointment orders after that date, are also entitled to the Old Pension Scheme (OPS).

16. Taking a holistic view of the above factors, we find that the Petitioner has made out a case. Since the Petitioner's appointment is pursuant to the advertisement and was made on 1st July 1992, he is entitled to receive the benefits from the date of his appointment. He is, therefore, entitled to the benefits of the OPS and gratuity which has not yet been paid to him. The Petitioner superannuated on 31st March 2022 and is yet to receive these benefits.

17. In view of the above, this Writ Petition is allowed. The Petitioner shall be entitled to the OPS and shall also be entitled to gratuity.

18. As a consequence of the above, the Petitioner would be entitled to statutory interest on the delayed payment of pension, as well as the gratuity. We direct that the pension papers shall be cleared by all concerned authorities, along with the gratuity proposal, and the payment of pension shall commence within a period of 60 days from today. The gratuity, along with arrears of pension, with

statutory interest on both, would also be paid to the Petitioner within a period of 60 days from today.

19. Rule is made absolute in the above terms.