

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 739 OF 2021
(Subject:-Benefits of Old Pension Scheme)**

DISTRICT: - SOLAPUR

1. **Vilas S/o Manik Yadav,**)
Age 40 years, Occ. Service as)
Head Constable / W.O.)
Commandant SRPF GR 10, Solapur,)
Dist. Solapur.)
2. **Basanna Tukaram Dhayagonde,**)
Age 58 years, Occ. Pensioner,)
Retired as ASI/RM,)
Commandant SRPF GR 10, Solapur,)
Dist. Solapur.)
3. **Nagnath S/o Santram Sabale,**)
Age 47 years, Occ. Service as)
Head Constable / W.O.)
Commandant SRPF GR 10, Solapur,)
Dist. Solapur.)
4. **Kanchan Mohan Kanhere,**)
Age 39 years, Occ. Service as)
Head Constable / W.O.)
Commandant SRPF GR 10, Solapur,)
Dist. Solapur.)
5. **Noorjahan Akil Inamdar,**)
Age 38 years, Occ. Service as)
Head Constable / W.O.)
Commandant SRPF GR 10 Solapur,)
Dist. Solapur.)
6. **Ravindra S/o Kisanrao Khajure,**)
Age 35 years, Occ. Service as)
Head Constable / W.O.)
Commandant SRPF GR 10, Solapur,)
Dist. Solapur.)
7. **Vishwas S/o Balbhim Shinde,**)
Age 42 years, Occ. Service as)
ASI/ Radio Mechanic, Solapur Rural,)
Tal. And Dist. Solapur.)

- 8. Priyanka Dattatray Lokare,**)
Age 35 years, Occ. Service as)
Head Constable / W.O.)
Solapur Rural, Dist. Solapur.)
- 9. Abhijit S/o Mahendra Thombare,**)
Age 34 years, Occ. Service as)
Police Head Constable/Mast Lashkar)
Office of Superintendent of Police,)
Kolhapur, Dist. Kolhapur.)
- 10. Manoj S/o Hariprasad Pathak,**)
Age 50 years, Occ. Service as)
Head Constable/ W.O.,)
Commandant SRPF, GR 5, Daund,)
District Pune.)
- 11. Sheetal Amol Satav,**)
Age 37 years, Occ. Service as)
Head Constable / W.O.,)
Commandant SRPF, GR 5, Daund,)
District Pune.)
- 12. Dinesh S/o Rambhau Shirasmane,**)
Age 46 years, Occu. Service as)
Head Constable / W.O.,)
Commissioner of Police,)
Nashik City, Dist. Nashik.)
- 13. Sainath S/o Bhagwat Sapkale,**)
Age 38 years, Occu. Seervice as)
Head Constable / W.O.)
Dy. S.P. Office, Wireless,)
Nashik Range, Dist. Nashik.)
- 14. Panditrao Dattatray Patil,**)
Age 44 years, Occu. Service as)
Head Constable / W.O.)
Dy. S.P. Office, Wireless,)
Nashik Range, Dist. Nashik.)
- 15. Snehal Madhukar Pate,**)
Age 39 years, Occu. Service as)
Head Constable / W.O.)
Commissioner of Police,)
Nashik City, Dist. Nashik.)

- 16. Nitin S/o Chhagan Gorane,**)
 Age 43 years, Occu. Service as)
 ASI/ Radio Mechanic,)
 Dy. S.P. Office, Wireless,)
 Nashik Range, Dist. Nashik.)
- 17. Yashwant S/o Krishnaji Dhumal,**)
 Age 56 years, Occu. Service as)
 Office Superintendent,)
 Divisional Joint Registrar, Co-Operative)
 Societies Konkan Division, Navi Mumbai)
- 18. Ahmad Mahibub Maner,**)
 Age 46 years, Occu. Service as)
 A.S.I. / Storeman, Dy. S.P. Wireless,)
 Konkan Range, Kokan Bhavan,)
 Navi Mumbai.)
- 19. Ramkrushna Shantaram Sonawane,**)
 Age 39 years, Occ. Service as)
 PSI, S.P. Office, Nashik (Rural),)
 District Nashik.)
- 20. Meghana Anant Kulkarni,**)
 Age 45 years, Occu. Service as)
 ASI/ Radio Mechanic, Deputy S.P.)
 Wireless Office, Nashik Range,)
 District Nashik.)
- 21. Baby Niloba Wakhare,**)
 Age 43 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Thane City, Dist. Thane.)
- 22. Swati Nilesh Desale,**)
 Age 34 years, Occu. Service as)
 Head Constable / W.O.,)
 Commandant SRPF GR 1,)
 Pune, Dist. Pune.)
- 23. Parvin Asif Iqbal Pathan,**)
 Age 34 years, Occu. Service as)
 Head Constable / W.O.,)
 CCO Pune, (DPW Office, Pune,))
 District Pune.)

- 24. Nileema Anil Sawant,**)
 Age 34 years, Occu. Service as)
 Head Constable / W.O.,)
 GRBS DPW Office, Pune,)
 District Pune.)
- 25. Kavita Dattatray Bomble,**)
 Age 37 years, Occu. Service as)
 Head Constable / W.O.,)
 CMS and CCO DPW Office,)
 Pune, Dist. Pune.)
- 26. Anita Kashinath Wani,**)
 Age 37 years, Occu. Service as)
 Head Constable /W.O.,)
 CMS and CCO DPW Office,)
 Pune, Dist. Pune.)
- 27. Sachin S/o Subhash Kadam,**)
 Age 43 years, Occu. Service as)
 Head Constable /Mast Lashkar,)
 Commissioner of Police,)
 Pune City, Dist. Pune.)
- 28. Priti Madhukar Waghmare,**)
 Age 47 years, Occu. Service as)
 A.S.I. /Storeman,)
 DPW Office, PWI, Central Stores,)
 Pune, Dist. Pune.)
- 29. Prakash S/o Mahadev Mohite,**)
 Age 35 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Pune City, Dist. Pune.)
- 30. Babaji Shankar Aher,**)
 Age 39 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Pune City, Dist. Pune.)
- 31. Sapana Nitin Shinde,**)
 Age 37 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Pune City, Dist. Pune.)

- 32. Tejasvi Pravin Rajeshirke,**)
 Age 37 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Pune City, Dist. Pune.)
- 33. Satish S/o Balasaheb Jamdade,**)
 Age 45 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Pune City, Dist. Pune.)
- 34. Kavita Appasaheb Jagtap,**)
 Age 34 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Pune city, Dist. Pune.)
- 35. Sachin S/o Mahadev Pacharne,**)
 Age 39 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Mumbai City, Mumbai.)
- 36. Kshitija Prashant Barkade,**)
 Age 34 years, Occu. Service as)
 ASI/ Radio Mechanic, S.P. Office,)
 Pune (Rural), Dist. Pune.)
- 37. Madhuri Santosh Dhumal,**)
 Age 37 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Pune City, Dist. Pune.)
- 38. Rupali Nitin Kondalkar,**)
 Age 35 years, Occu. Service as)
 Head Constable / W.O.,)
 Commissioner of Police,)
 Pune City, Dist. Pune.)
- 39. Pradip S/o Laxman Yadav,**)
 Age 37 years, Occu. Service as)
 Head Constable/W.O.,)
 CCO and CMS, DPW Office,)
 Pune Dist. Pune.)

- 40. Bharati Ashok Lahange,**)
 Age 40 years, Occu. Service as)
 Head Constable / W.O.,)
 "C" Branch DPW Office, Pune)
 Dist. Pune.)
- 41. Smita Chandrakant Bhuse,**)
 Age 41 years, Occu. Service as)
 Head Constable / W.O.,)
 S.P. Office, Solapur Rural,)
 Dist. Solapur.)
- 42. Atul Dhanaji Zende,**)
 Age 43 years, Occu. Service as)
 Head Constable / W.O.,)
 S.P. Pune Railway,)
 (Daund Railway) Dist. Pune.)
- 43. Brahamdeo S/o Shankar Rokade,**)
 Age 59 years, Occu. Retired as)
 Head Constable / W.O.,)
 Commandant, SRPF, GR-II, Pune.)
- 44. Devadatta S/o Narayan Haratalekar,**)
 Age 59 years, Occu. Retired as)
 Head Constable /W.O.,)
 S.P. Office, Pune Railway,)
 District Pune.)
- 45. Nishikant Vasant Chikhalkar,**)
 Age 45 years, Occu. Service as)
 A.P.I. (F.P.), C.P. Office,)
 Mumbai City.)
- 46. Jamir Akbar Sayyed,**)
 Age 45 years, Occu. Service as)
 Full Time Teacher / Practical,)
 Government Technical High)
 School, Trambak Naka, Nashik,)
 Tal. & District Nashik.)
-)...APPLICANTS**

V E R S U S

1. **The State of Maharashtra,**)
Through its Principal Secretary,)
Finance Department,)
Mantralaya, Mumbai -32.)
2. **The Principal Secretary,**)
General Administration Department,)
Maharashtra State,)
Mantralaya, Mumbai.)
3. **The Principal Secretary,**)
Home Department,)
Maharashtra State,)
Mantralaya, Mumbai.)
4. **Additional Director General of Police)
and Director of Police,**)
Wireless Message,)
Maharashtra State, Pune.)..RESPONDENTS

WITH

**ORIGINAL APPLICATION NO. 740 OF 2021
(Subject:-Benefits of Old Pension Scheme)**

DISTRICT: - AURANGABAD

1. **Indrakumar Sharadrao Auti,**)
Age 42 years, Occ. Service as)
Head Constable / Wireless Operator,)
Commissioner of Police,)
Aurangabad City, Dist. Aurangabad.)
2. **Kiran S/o Kishanrao Kulkarni,**)
Age 43 years, Occu/ Service as)
ASI/Radio Mechanic,)
S.P. Office Latur, Dist. Latur.)
3. **Vivekanand S/o Chandranath Sagar,**)
Age 35 years, Occu. Service as)
ASI/ Radio Mechanic,)
S.P. Office Latur, Dist. Latur.)

4. **Avinash S/o Hanumantrao Patil,**)
Age 53 years, Occu. Service as)
Police Head Constable /W.O.,)
S.P. Office, Latur, Dist. Latur.)
5. **Abhijit S/o Vinay Bajpai,**)
Age 41 years, Occu. Service as)
Head Constable / W.O.,)
S.P. Office Latur, Dist. Latur.)
6. **Mangesh S/o Madhavrao Birajdar,**)
Age 42 years, Occu. Service as)
Head Constable / W.O.,)
S.P. Office Latur, Dist. Latur.)
7. **Shailja Bharat Shinde,**)
Age 36 years, Occu. Service as)
Head Constable / W.O.,)
S.P. Office Latur, Dist. Latur.)
8. **Walmik S/o Ramkrushna Sonawane,**)
Age 40 years, Occu. Service as)
ASI / Radio Mechanic,)
S.P. Office, Nandurbar, Dist.Nandurbar.)
9. **Prakash S/o Eknath Patil,**)
Age 49 years, Occu. Service as)
Head Constable / W.O.,)
S.P. Office, Aurangabad Railway,)
(Posting –Bhusawal Railway),)
Dist. Aurangabad.)
10. **Sanjay S/o Umakant Warulkar,**)
Age 40 years, Occu. Service as)
Head Constable/ W.O.,)
S.P. Office, Aurangabad Railway,)
(Posting – Bhusawal Railway),)
Dist. Aurangabad.)
11. **Tushar S/o Bhaskarrao Patil,**)
Age 45 years, Occu. Service as)
Head Constable/ W.O.,)
S.P. Office, Aurangabad Railway,)
(Posting – Bhusawal Railway),)
Dist. Aurangabad.)

- 12. Ravindra S/o Vishwanath Vanjari,**)
 Age 47 years, Occu. Service as)
 Head Constable/ W.O.,)
 S.P. Office, Aurangabad Railway,)
 (Posting – Bhusawal Railway),)
 Dist. Aurangabad.)
- 13. Shahnawaz Chandmiya Shaikh,**)
 Age 48 years, Occu. Seervice as)
 Head Constable / W.O.,)
 S.P. Office, Ahmednagar,)
 Dist. Ahmednagar.)
- 14. Ramesh S/o Bhikaji Kalange,**)
 Age 59 years, Occu. Retired as)
 Head Constable / W.O.,)
 S.P. Office, Ahmednagar,)
 Dist. Ahmednagar.)
- 15. Kishor S/o Madhukarrao Kolsure,**)
 Age 44 years, Occu. Service as)
 ASI/ Radio Mechanic, S.P. Office,)
 Osmanabad, Dist. Osmanabad.)
- 16. Padmakar Dnyandeo Pingle,**)
 Age 43 years, Occu. Service as)
 Head Constable/ W.O.,)
 Shegaon Railway, S.P. Office,)
 Aurangabad Railway, Dist. Aurangabad)
- 17. Rupali Atul Patale,**)
 Age 40 years, Occu. Service as)
 Head Constable/W.O.,)
 S.P. Office, Dhule, Dist. Dhule.)
- 18. Haushabapu Damodhar Tamnar,**)
 Age 47 years, Occu. Service as)
 Head Constable/ W.O., S.P. Office,)
 Ahmednagar, District- Ahmednagar.)
- 19. Ramakant S/o Ramchandra Fulmali,**)
 Age 38 years, Occu. Service as)
 Head Constable / Mast Lasker,)
 Office of S.P. Jalna, District Jalna.)

- 20. Shivaji Bhimsing Patil,**)
Age 39 years, Occu. Service as)
Head Constable / W.O.,)
S.P. Office, Jalgaon, District Jalgaon.)
- 21. Sachin S/o Madhukar More,**)
Age 42 years, Occu. Service as)
Head Constable / W.O.,)
Office of Deputy Superintendent)
of Police, Wireless Range, Aurangabad,)
Dist. Aurangabad.)
- 22. Satish Haribhau Shinde,**)
Age 43 years, Occu. Service as)
ASI / Radio Mechanic,)
Commissioner of Police, Aurangabad,)
Tal. & District Aurangabad.)
- 23. Dinanath Piran Patil,**)
Age 43 years, Occu. Service as)
Head Constable / W.O.,)
SDRF, SRPF GR 6,)
Dhule, District Dhule.)
- 24. Prajakta Rahul Diwan,**)
Age 40 years, Occu. Service as)
ASI / Radio Mechanic,)
Office of Deputy Superintendent of)
Police, Wireless Range, Aurangabad,)
Tal. & District Aurangabad.)
- 25. Gayatri Sachin Patil-Warale @**)
Gayatri Sitaram Patil,)
Age 40 years, Occu. Service as)
ASI/ Radio Mechanic, S.P. Office,)
Aurangabad (Rural), Dist. Aurangabad.)
- 26. Nilima Madhukar More,**)
Age 38 years, Occu. Service as)
Head Constable /W.O.,)
Commissioner of Police,)
Aurangabad City, District Aurangabad.)...**APPLICANTS**

V E R S U S

1. **The State of Maharashtra,**)
Through its Principal Secretary,)
Finance Department,)
Mantralaya, Mumbai -32.)
2. **The Principal Secretary,**)
General Administration Department,)
Maharashtra State,)
Mantralaya, Mumbai.)
3. **The Principal Secretary,**)
Home Department,)
Maharashtra State,)
Mantralaya, Mumbai.)
4. **Additional Director General of Police)**
and Director of Police,)
Wireless Message,)
Maharashtra State, Pune.)..RESPONDENTS

WITH

ORIGINAL APPLICATION NO. 741 OF 2021
(Subject:-Benefits of Old Pension Scheme)

DISTRICT: - AMRAVATI

1. **Rahul S/o Vasantrao Manjare,**)
Age 42 years, Occu. Service as)
Head Constable / Wireless Operator,)
S.P. Office, Amravati Rural,)
Dist. Amravati.)
2. **Rajesh S/o Harishchandra Jawalekar)**
Age 49 years, Occu. Service as)
Police Head Constable/ W.O.,)
Office of Deputy Superintendent)
of Police, Wireless, Nagpur Range,)
Nagpur, District Nagpur.)

3. **Namita Ramchandra Gaikwad,**)
Age 47 years, Occu. Service as)
Police Head Constable/ W.O.,)
Office of Deputy Superintendent)
of Police Nagpur (Rural), Dist. Nagpur.)
4. **Alka Sachin Chaware @**)
Alka Samarjitsingh Thakur,)
Age 37 years, Occu. Service as)
Police Head Constable / W.O.,)
Office of Superintendent of Police,)
Nagpur (Rural), District Nagpur.)
5. **Suvarna Manikrao Waghmare,**)
Age 37 years, Occu. Service as)
Police Head Constable / W.O.,)
Commissioner Office, Nagpur,)
District Nagpur.)
6. **Swati Amol Katturwar,**)
Age 38 years, Occu. Service as)
Police Head Constable / W.O.,)
Commissioner Office, Nagpur,)
District Nagpur.)
7. **Chaitali Niranjan Pangul,**)
Age 34 years, Occ. Service as)
ASI/ Radio Mechanic,)
Office of Superintendent of Police)
Nagpur (Rural), District Nagpur.)
8. **Smita Nandkishor Kalambe,**)
Age 40 years, Occu. Service as)
Head Constable / W.O.,)
Office Superintendent of Police,)
Gadchiroli, Dist. Gadchiroli.)
9. **Manoj S/o Hirchandra Sirsat,**)
Age 41 years, Occ. Service as)
Head Constable / W.O.,)
S.P. Office, Nagpur Railway,)
(Posting –Gondia Railway),)
Dist. Nagpur.)

10. **Kiran Manoj Sirsat,**)
 Age 40 years, Occu. Service as,)
 Head Constable/ W.O.,)
 S.P. Office, Gondia, Dist. Gondia.)
11. **Pramod S/o Kashinath Kulat,**)
 Age 39 years, Occu. Service as)
 Head Constable / W.O.,)
 S.P. Office, Nagpur Railway,)
 (Posting –Akola Railway), Dist. Nagpur.)
12. **Vasundhara Ambadas Adhe,**)
 Age 42 years, Occu. Service as)
 Head Constable / Wireless Operator,)
 Commissioner of Police,)
 Amravati City, Dist. Amravati.)
13. **Ashish S/o Ramkrishna Mangulkar,**)
 Age 41 years, Occu. Service as)
 ASI / Radio Mechanic, S.P. Office,)
 Amravati Rural, Dist. Amravati.)
14. **Sunildatta S/o Devidas Mahalle,**)
 Age 57 years, Occu. Service as)
 Head Constable / W.O.,)
 S.P. Office, Amravati Rural,)
 District-Amravati.)
15. **Ujwal S/o Uddhavarao More,**)
 Age 41 years, Occu. Service as)
 Head Constable / W.O. Commandant,)
 SRPF GR 9, Amravati Dist. Amravati.)
16. **Seema Ganpatrao Dhote,**)
 Age 40 years, Occu. Service as)
 Head Constable/ Wireless Operator,)
 Commissioner of Police,)
 Amravati City, Dist. Amravati.)
17. **Gajanan S/o Subhashrao Bawane,**)
 Age 39 years, Occu. Service as)
 Head Constable / Wireless Operator,)
 Commandant SRPF GR 9 Amravati,)
 District Amravati.)

- 18. Vinayak Govindrao Gawai,**)
 Age 58 years, Occu. Retired as)
 Head Constable / Wireless Operator,)
 S.P. Office, Amravati (Rural))
 District Amravati.)
- 19. Rajendra S/o Abhiman Waghmare**)
 Age 60 years, Occu. Retired as)
 Head Constable / Wireless Operator,)
 S.P. Office, Amravati (Rural))
 Dist. Amravati.)
- 20. Vrushali Shaligram Nawkar,**)
 Age 37 years, Occu. Service as)
 Head Constable / Wireless Operator,)
 S.P. Office, Amravati (Rural))
 Dist. Amravati.)
- 21. Vinodkumar S/o Namdeorao Kowale,**)
 Age 54 years, Occu. Service as)
 A.S.I. / Radio Mechanic, S.P. Office,)
 Amravati (Rural) Dist. Amravati.)
- 22. Rajesh S/o Namdeorao Khajone,**)
 Age 45 years, Occu. Service as)
 Head Constable / W.O.,)
 Amravati Range, Dist. Amravati.)
- 23. Vishal S/o Prakash Damodar,**)
 Age 41 years, Occu. Service as)
 Head Constable / W.O.,)
 S.P. Office, Akola, Tal. & Dist. Akola.)
- 24. Dinesh S/o Kachruji Wasnik,**)
 Age 47 years, Occu. Service as)
 A.S.I./ Radio Mechanic,)
 S.P. Office, Gadchiroli,)
 (Posting – Sironcha) Dist. Gadchiroli.)
- 25. Sudhir S/o Ajabrao Walokar,**)
 Age 56 years, Occu. Service as)
 Head Constable / W.O.,)
 S.P. Office, Nagpur Railway,)
 (Posting – Gondia Railway),)
 Dist. Nagpur.)

- 26. Omprakash S/o Chetram Ukas,**)
 Age 46 years, Occu. Service as)
 Police Head Constable / W.O.,)
 Wireless Section Ettapalli,)
 S.P. Office, Gadchiroli, Dist. Gadchiroli,)
- 27. Rajanish S/o Chunnilal Rakhade,**)
 Age 40 years, Occu. Service as)
 Police Head Constable / W.O.,)
 Aheri, S.P. Office, Gadchiroli,)
 Dist. Gadchiroli.)
- 28. Sushma Sanjay Dhengle,**)
 Age 43 years, Occu. Service as)
 ASI /Radio Mechanic, S.P. Office,)
 Chandrapur, Dist. Chandrapur.)
- 29. Kailas Fago Ramteke,**)
 Age 48 years, Occu. Service as)
 Head Constable / Electrician,)
 S.P. Office, Chandrapur,)
 District Chandrapur.)
- 30. Dinesh S/o Dayaram Pohare,**)
 Age 39 years, Occu. Service as)
 Head Constable / W.O.,)
 S.P. Office, Nagpur Railway,)
 (Posting- Akola Railway),)
 District Nagpur.)
- 31. Narendra S/o Himmatrao Chimote,**)
 Age 56 years, Occu. Service as)
 A.S.I. / Radio Mechanic,)
 S.P. Office, Amravati (Rural))
 Dist. Amravati.)
- 32. Dayanand Nagnath Natave,**)
 Age 47 years, Occu. Service as)
 Head Constable / Electrician,)
 S.P. Office, Gadchiroli, Dist. Gadchiroli.)
- 33. Megha Vilasrao Gadge,**)
 Age 46 years, Occu. Service as)
 ASI/ Radio Mechanic, S.P. Office,)
 Gadchiroli, Dist. Gadchiroli.)

- 34. Randhir Bibhishan Jadhwar,**)
 Age 39 years, Occu. Service as)
 Head Constable / Mast Lashkar,)
 S.P. Office, Gadchiroli,)
 District Gadchiroli.)...**APPLICANTS**

V E R S U S

- 1. The State of Maharashtra,**)
 Through its Principal Secretary,)
 Finance Department,)
 Mantralaya, Mumbai -32.)
- 2. The Principal Secretary,**)
 General Administration Department,)
 Maharashtra State,)
 Mantralaya, Mumbai.)
- 3. The Principal Secretary,**)
 Home Department,)
 Maharashtra State,)
 Mantralaya, Mumbai.)
- 4. Additional Director General of Police)
 and Director of Police,)
 Wireless Message,)
 Maharashtra State, Pune.)..**RESPONDENTS****

APPEARANCE : Shri S.B. Solanke, learned Advocate for
 the applicant.
 : Shri N.U. Yadav, learned Presenting
 Officer for the respondents.

CORAM : **SHRI V.D. DONGRE, MEMBER (J)**

DATE : **23.12.2022.**

ORDER

1. By invoking jurisdiction of this Tribunal under Section 19 of Administrative Tribunals Act, 1985, these Original Applications are filed seeking direction to the respondent authorities not to apply Defined Contribution Pension Scheme (D.C.P.S.) to the applicants as they are recruited before 01.11.2005 and seeking declaration that being recruited before 01.11.2005, they are entitled for the benefit of Maharashtra Civil Services (Pension) Rules, 1982 and Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and General Provident Fund Scheme (G.P.F.) and to make contribution towards the said Pension Scheme and General Provident Fund Scheme (G.P.F.).

2. All the applicants in these three Original Applications are working in the same department being initially selected on the different posts in Police Wireless Recruitment, 2005 and are claiming the identical relief of Old Pension Scheme. Hence it would be appropriate to dispose of all these Original Applications by this common order. For sake of convenience, Original Application No.739 of 2021 is taken as lead case for referring the pleadings and documents.

3. The facts in brief giving rise to these Original Applications can be summarized as follows:-

(i) The respondent No.4 i.e. the Additional Director General of Police and Director of Police, Wireless Message, Maharashtra State, Pune issued an advertisement dated 20.01.2005 (Annex. 'A-1') called as Police Wireless Recruitment, 2005, thereby calling the applications from the eligible candidates for the posts of Assistant Sub-Inspector (Radio Machine), Assistant Sub-Inspector (Storeman), Police Constable (Wireless Operator), Police Constable (Electrician), Police Constable (Assistant Storeman) and Police Constable (Mast Lasker) and prescribed the educational qualification and other recruitments/qualifications. The applicants being eligible and qualified for their respective posts, they applied to the respondent No.3 i.e. the Principal Secretary, Home Department, Maharashtra State pursuant to the above said advertisement dated 20.01.2005.

(ii) Thereafter, the applicants undergone the entire process of recruitment and they came to be selected for their respective posts. The result in respect of the said recruitment process was declared and published on 29.10.2005 (Annex. 'A-2'). Pursuant to the recruitment, the appointment orders

came to be issued in favour of the applicants on 02.11.2005 (Annex. 'A-3' collectively) through post. After receipt of the same, the applicants joined their respective places/posts.

(iii) It is the contention of the applicants that since the entire process of recruitment of the applicants was completed prior to 01.11.2005, the benefit of Maharashtra Civil Services (Pension) Rules, 1982 and Maharashtra Civil Services (Commutation of Pension) Rules, 1984 were and are available to the applicants.

(iv) The State Government issued G.R. dated 31.10.2005 (Annex. 'A-4') thereby providing that the Government servants, who are recruited on or after 01.11.2005, would be governed by the new pension scheme namely, Defined Contribution Pension Scheme (D.C.P.S.). Thereby it was also provided that the consequential amendment would be made in the M.C.S. (Pension) Rules, 1982. Accordingly, notification dated 31.10.2005 (Annex. 'A-5') came to be issued by the Finance Department, Maharashtra State, Mantralaya, Mumbai and the Sub-Rule (2) has been added to Rule 2 of the Maharashtra Civil Services (Pension) Rules, 1982 which provides as under:-

“(2) These rules shall not apply to the Government Servants, who are recruited on or after 1st November, 2005.”

(v) It is further contended that in the similar set of facts, Writ Petition No. 4115/2016 was filed before the Hon’ble High Court of Judicature at Bombay, Bench at Aurangabad by Balasaheb Subrao Kale & Ors. The said Writ Petition was decided by order dated 30.11.2018 (Annex. ‘A-5’) whereby the said Writ Petition was allowed holding that the petitioners therein would be governed by the Old Pension Scheme, 1982 and not by DCPS.

(vi) The applicants filed several applications to the respondent authorities (Annex. ‘A-7’ collectively), but the respondent authorities did not respond to the said applications and no action in pursuance of the said applications is yet taken by them.

(vii) It is further contended that the policy of Defined Contribution Pension Scheme (DCPS) was firstly introduced by the Central Government and later on, the same has been adopted by the State Government by giving the cut off date as 01.11.2005. In respect of the employees of the Central

Government, the said policy is made applicable from 01.01.2004. Similar issue as is raised in the present application was raised by some of the Central Government employees. Upon that, Department of Pension and PW, Government of India issued an Office Memorandum dated 17.02.2020 (Annex. 'A-8') thereby *inter alia* stating as under:-

“Since the result for recruitment was declared before 01.01.2004, denial of the benefit of pension under CCS (Pension) Rules, 1972 to the affected Government servants is not considered justified.”

Therefore, in view of that, if the same analogy is applied here in case of the applicants also, the applicants are entitled to get the benefits of Old Pension Scheme under the Maharashtra Civil Services (Pension) Rules, 1982.

(viii) It is further submitted that, inspite of the abovestated documents on record, the respondents are making applicable Defined Contribution Pension Scheme. One of the candidates who was recruited along with the applicants namely, Shri Dattatraya Yashwant Dange filed an application for getting the benefit of Old Pension Scheme. However, he received the letter dated 28.01.2020 (Annex. 'A-9') whereby the Desk

Officer, Industries, Energy and Labour Department, Mantralaya, Mumbai informed that his request to apply old pension scheme is rejected. The applicants are aggrieved by making new pension scheme namely, Defined Contribution Pension Scheme applicable them though they are entitled for old pension scheme as per M.C.S. (Pension) Rules, 1982. Hence, these applications.

4. The applications are resisted by filing affidavit in reply on behalf of the respondent No.4 by one Sanjay Subhash Chandkhede working as the deputy Superintendent of Police (Wireless), Aurangabad Range, Aurangabad, thereby he denied the adverse contentions raised in the Original Applications.

(i) It is specifically submitted that the Maharashtra Civil Services (Pension) Rules, 1982 are made applicable to the Government Servants on their appointment in regular post. The benefits of Government Scheme become applicable when the particular person in Government Service on that particular date. The applicants were appointed on their respective posts by issuing appointment letters dated 02.11.2005. In view of that, the applicants are governed by

new pension scheme of DCPS as they entered into the Government service after 01.11.2005 onwards. Thereby the respondents have acted in accordance with Rules and regulations. The period of recruitment cannot be taken into consideration for extending the benefits of Old Pension Scheme to the applicant as they are appointed after 01.11.2005. Consequently, they are governed by new pension scheme of DCPS. There is no merit in the Original Applications and the same are liable to be dismissed.

5. I have heard at length the arguments advanced by Shri S.B. Solanke, learned Advocate for the applicants on one hand and Shri N.U. Yadav, learned Presenting Officer representing the respondents on other hand.

6. Perusal of the facts and documents on record would show that the recruitment process of Police Wireless Recruitment, 2005 began by issuance of advertisement dated 20.01.2005 (Annex. 'A-1'). Select list of the candidates was prepared and declared as per noting dated 29.10.2005 (Annex. 'A-2'). Pursuant to the said select list, appointment orders to the applicants (Annex. 'A-3' collectively) were issued

on 02.11.2005. Thereafter, the applicants joined on their respective posts/places.

7. Undisputedly, the Finance Department of Government of Maharashtra issued G.R. dated 31.10.2005 (Annex. 'A-4'), thereby providing that the Government servants, who are recruited after 01.11.2005 would be governed by new pension scheme namely, Defined Contribution Pension Scheme and it was also provided that consequential amendment would be made in the Maharashtra Civil Service (Pension) Rules, 1982.

8. Accordingly, the said Department also, issued notification dated 31.10.2005 (Annex. 'A-5') thereby inserting Sub-Rule (2) to Rule 2 of Maharashtra Civil Services (Pension) Rules, 1982 as under:-

“(2) These rules shall not apply to the Government Servants, who are recruited on or after 1st November, 2005.”

9. In view of the abovesaid facts and circumstances, learned Advocate for the applicant strenuously urged before me that the recruitment process was completed before cut off date on 01.11.2005 and issuances of appointment letters/orders on 02.11.2005 is only a formality. Only

because appointment orders/letters were issued on or after 01.11.2005 that does not disentitle the applicants of seeking benefits of Maharashtra Civil Services (Pension) Rules, 1982. In fact the applicants are governed by old pension scheme. The applicants, however, are deprived of the old pension scheme without any justification. To bring home the above said submissions, learned Advocate for the applicants placed reliance on the case law of the Hon'ble Apex Court reported in AIR 1993 SCW 671 in the matter of **Prafulla Kumar Swain Vs. Prakash Chandra Misra & Ors.** In paragraph No. 28 it is observed as follows:-

“28. At this state, we will proceed to decide as to the meaning and effect of the words “recruitment” and “appointment”. The term “recruitment” connotes and clearly signifies enlistments, acceptance, selection or approval for appointment. Certainly, this is not actual appointment or posting in service. In contradistinction the word “appointment” means an actual act of posting a person to a particular office.”

10. Learned Advocate for the applicant further placed reliance on the decision of the Hon'ble Bombay High Court, Bench at Aurangabad dated 06.09.2022 in Writ Petition No. 13702/2021 in the matter of **Gangu Murlidhar Zade Vs.**

State of Maharashtra & Ors. The Petitioner therein sought declaration that she is entitled to be governed by the benefits of Old Pension Scheme envisaged under the provisions of Maharashtra Civil Services (Pension) Rules, 1982, Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and General Provident Fund Scheme. The Petitioner came to be appointed on the post of Shikshan Sevak vide letter dated 26.10.2005. However, on account of Diwali Vacation in the school, the appointment order was made effective from 16.11.2005. Meanwhile, new Defined Contributory Pension Scheme came to be introduced by the State Government vide G.R. dated 31.10.2005 effective from 01.11.2005. Since the petitioner joined the post of Shikshan Sevak on 16.11.2005, Defined Contributory Pension Scheme was made applicable to her. It is observed that the issue is no more *res-integra* and is covered by decisions of this Court in **Kishor Asaram Nirwal and Others Vs. The State of Maharashtra & Others, Writ Petitioner No. 2689 of 2014 decided on 27.08.2018** and **Balasaheb Subrao Kale & others Vs. State of Maharashtra & Others, Writ Petition No. 4115 of 2016 decided on 30.11.2018.** Moreover, in paragraph No.7 it is observed as follows:-

*“7. We may observe here that the Government of India, Department of Pension and PW has issued Office Memorandum dated 17.02.2020 directing that the Government servants who were declared successful for recruitment in the results declared on or before 31.12.2003 against the vacancies occurring before 01.01.2004 and are covered under the National Pension System on joining service on or after 01.01.2004, may be given a **one time option** to be covered under the CCS (Pension) Rules, 1972. Thus, the Central Government has now formulated a scheme, where the Government servants whose selection process is complete prior to the date of coming into effect of the Defined Contributory Pension Scheme have been given option to switch over to the Old Pension Scheme. The case of the petitioner, in our opinion, stands on much better footings. Her selection was not only complete prior to the coming into effect of the Defined Contributory Pension Scheme, but she was issued appointment order on 26.10.2005. We, therefore, do not think that this is an appropriate case to defer from the consistent view taken by this Court.”*

11. Learned Advocate for the applicant further placed reliance on the decision of the Hon’ble High Court of Delhi at New Delhi in W.P. (C) No. 756/2020 decided on 28.01.2020 in the matter of **Dr. Davinder Singh Brar Vs. Union of India & Ors.** In the said citation case, the respondents issued an

advertisement dated 24th May, 2003 inviting applications for appointment to Group 'A' posts of Dental Surgeon in the rank of Assistant Commandant in the Respondent/Border Security Force ('BSF'). In response to the said advertisement, the Petitioner applied and, on being found eligible, was called to appear on 29th March, 2004 for an interview/medical examination, which he cleared. The Respondents issued an appointment letter to him on 16th October, 2004. New pension scheme thereof was made applicable w.e.f. 01.01.2004. The representation made by the applicant for applicability of old pension scheme was rejected.

12. In the said citation case, it is observed that it has been consistently held by this Court in a series of orders that those who had participated in the examination of 2003 would be covered by the Old Pension Scheme notwithstanding that they had been offered letters of appointment only after 01.01.2004. In the circumstances, direction was issued to the respondents to extent the benefit of Old Pension Scheme to the Petitioner in terms of the CCS (Pension) Rules, 1972 by issuing appropriate orders within a period of 12 weeks from the date of order.

13. Learned Advocate for the applicant placed on record the copy of decision of the Hon'ble Apex Court dated 04.02.2021 whereby Special Leave to Appeal (C) No. 173/2021 challenging the impugned final judgment and order dated 28.01.2020 in WP (C) No. 756/2020 passed by the High Court of Delhi at new Delhi was dismissed.

14. In the circumstances as above, in view of the ratio laid down in the abovesaid citations, if the facts of the present cases are considered, it is seen that the whole recruitment process from issuances of advertisement till declaration of select list was done during the period of 20.01.2005 to 29.10.2005. The new pension scheme is made applicable to the Government servants who are recruited on or after 01.11.2005 also thereby not extending the old pension scheme to such Government servants. The applicants are given appointment orders on 02.11.2005 pursuant to selection process undertaken prior to 01.11.2005. Hence, the ratio laid down in all the abovesaid case laws is aptly applicable. Moreover, the cases of these applicants are even on better footing than the facts of the citation of the Hon'ble High Court of Delhi at New Delhi in the case of **Dr. Davinder Singh Brar** (cited supra). The applicants are deprived of

their right to be governed by the old pension scheme. In view of the same, the applicants shall be entitled for the reliefs as claimed by them in terms of prayer clause B, C and D. I, therefore, proceed to pass the following order:-

ORDER

The Original Applications are allowed in terms of prayer clause B, C and D as follows:-

“(i) “B. This Hon’ble Tribunal may be pleased to hold that, the Applicants are recruited prior to 1.11.2005 and therefore, they are entitled to get the benefits of old pension scheme i.e. the Maharashtra Civil Services (Pension) Rules 1982 and Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and General Provident Fund Scheme (G.P.F.) and for that purpose issue necessary orders;

C. This Hon’ble Tribunal may be pleased to direct the Respondent Authorities to extend the benefits to the Applicants under the Maharashtra Civil Services (Pension) Rules 1982 and Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and General Provident Fund

Scheme (GPF) and further direct them to make contribution towards the said Pension Scheme and General Provident Fund Scheme.

D. This Hon'ble Tribunal may be pleased to direct the Respondent authorities not to enforce and apply the New Pension Scheme i.e. Defined Contribution Pension Scheme to the Applicants in any manner and/or by any method.

(ii) No order as to costs.

(V.D. DONGRE)
MEMBER (J)

Place:- Aurangabad

Date : 23.12.2022

SAS O.As. 739, 740 & 741 /2021