

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 72 OF 2023

DISTRICTS : JALNA, JALGAON,
HINGOLI, AURANGABAD, PARBHANI,
DHULE & NANDED

1. **Vinod S/o Wamanrao Rakh**)..
Age : 57 years, Occu. Service
(as Lecturer, DIET, Jalna),
R/o. Gadhi, Tal. Georai,
Dist. Beed.
2. **Dr. Dashrath Baburao Salunkhe,**)..
Age : 56 years, Occu. Service
(as Lecturer, DIET, Jalgaon),
R/o. Plot No. 21, Gut No. 28,
SMIT College Road,
Muktai Nagar Colony,
Near Bandhan Tank, Jalgaon.
3. **Deepak S/o Ramchandra Sable,**)..
Age : 48 years, Occu. Service
(as Senior Lecturer, DIET, Hingoli),
R/o. 46, 'Padma' Near Dharmale
Hospital, Manik Nagar, Taroda (Bk),
Nanded.
4. **Dr. Pramod S/o Ramkrishna Kumawat,)**..
Age : 48 years, Occu. Service
(as Lecturer, Regional Academic Authority),
Near Deogiri College, Padampura,
Aurangabad.
5. **Dr. Pravinkumar S/o Vithalrao Paikrao,)**..
Age : 51 years, Occu. Service
(as Lecturer, DIET, Parbhani),
R/o. Praful Colony, Near Ghanoba
Temple, Taroda (Bk), Nanded.

6. **Dr. Prakash S/o Ramrao Mante**)..
Age : 50 years, Occu. Service
(as Lecturer, DIET, Aurangabad),
R/o. Pahadepushp Apartment,
Flat No. B-2, Vijay Nagar,
Vijay Chowk, Garkheda, Aurangabad.
7. **Dr. Sunita Jogram Rathod**)..
Age : 46 years, Occu. Service
(as Lecturer, Regional Academic
Authority), Near Deogiri College,
Padampura, Aurangabad.
8. **Sucheta Tarachand Patil**)..
Age : 50 years, Occu. Service
(as Lecturer, DIET, Dhule),
R/o. 83, Chandradeep Nagar,
Wadi Bhokar Road, Deopur,
Dhule.
9. **Pratibha Vamanrao Bhavsar,**)..
Age : 51 years, Occu. Service
(as Senior Lecturer, DIET, Jalgaon),
R/o. 10, Draupadi Nagar,
Near Bendale Stop, Pimprala,
Dist. Jalgaon.
10. **Dr. Chandrakant Dodhu Salunkhe,**)..
Age : 53 years, Occu. Service
(as Lecturer, DIET, Hingoli),
R/o. 26/1, Nivrutti Nagar, Jalgaon.
11. **Dr. Girish Eknath Borse**)..
Age : 50 years, Occu. Service
(as Lecturer, DIET, Dhule),
R/o. 10, Giriraj ITI Colony,
Behind Akashwani, Deopur,
Dhule.
12. **Dr. Rajendra Bhimrao Mahajan,**)..
Age : 52 years, Occu. Service
(as Lecturer, DIET, Jalgaon),
R/o. 48, Om Shanti Nagar,
Near Vidhi Jewelers, Dist. Jalgaon.

- 13. Jayshri Tarachand Patil,**)..
Age : 48 years, Occu. Service
(as Senior Lecturer, DIET, Jalgaon),
R/o. 36-A, Datta Colony, Datta Mandir,
Deopur, Dhule.
- 14. Anil S/o Sambhaji Murkute,**)..
Age : 49 years, Occu. Service
(as Senior Lecturer, DIET, Parbhani),
R/o. 102, Maitri Park, Anand Nagar,
Ambajogai, Dist. Beed.
- 15. Jaishree Kailasrao Athawale,**)..
Age : 47 years, Occu. Service
(as Senior Lecturer, DIET, Nanded),
R/o. 'Purnima Niwas', Nandkishor
Nagar, Purna Road, Near BSNL
Office, Nanded.
- 16. Dr. Manjusha Sudhakar Rao Kshirsagar,**)..
Age : 49 years, Occu. Service
(as Senior Lecturer, DIET, Dhule),
R/o. Shaskiya Vidya Niketan,
Maharana Pratap Chowk, Dhule. .. **APPLICANTS**

V E R S U S

- 1) The State of Maharashtra,**
Through its Addl. Chief Secretary,
Finance Department, M.S.,
Mantralaya, Mumbai-32.
- 2) The Addl. Chief Secretary,**
School Education & Sports Dept.,
M.S., Mantralaya, Mumbai-32.
- 3) The Commissioner,**
Education,
Education Commissionerate,
Central Building, 1st Floor,
Dr. Annie Besant Road,
Agarkar Nagar, Pune-01.

4) The Director,
State Council of Educational
Research & Training,
#708, R.B, Kumthekar Road,
Perugate, Sadashiv Peth,
Pune-30.

**5) The Maharashtra Public Service
Commission,** Through its
Secretary, 5th, 7th & 8th Floor,
Cooprej Telephone Ex. Bldg.,
Maharshi Karve Marg, Cooprej,
Mumbai-21.

.. **RESPONDENTS**

APPEARANCE :- Shri Avinash S. Deshmukh, Advocate for
the applicants.
: Shri V.R. Bhumkar, learned Presenting
Officer for the respondent authorities.

CORAM : **Hon'ble Shri Justice P.R. Bora,**
Vice Chairman
and
Hon'ble Shri Vinay Kargaonkar,
Member (A)

DATE : **23.08.2024**

ORDER

[Per :- Justice P.R. Bora, V.C.]

1. Heard Shri Avinash S. Deshmukh, learned counsel
for the applicants and Shri V.R. Bhumkar, learned Presenting
Officer for respondent authorities.

2. All the applicants are serving as Lecturers in the
District Institute of Education & Training at different places.

The applicants had applied for the said post in response to the advertisement issued on 08.04.2004 after having successfully gone through the selection process, the applicants are appointed on the post of Lecturers in the spread over period from January, 2006 to April, 2006. The Old Pension Scheme was not made applicable to the applicants and, as such, the applicants jointly filed the present Original Application seeking directions against the respondents to make applicable the Old Pension Scheme to them. It is the contention of the applicants that since they entered into the Government service on the basis of the advertisement, which was published prior to 01.11.2005, they should not have been deprived from application of Old Pension Scheme.

3. Respondent no. 05 filed affidavit in reply and has opposed for grant of the relief as prayed for by the applicants. We may not refer to the grounds raised by the respondents in oppose to the contentions in the Original Application and the prayers made therein in view of the subsequent development, which has taken place during pendency of the present O.A.

4. When the present Original Application is taken up for consideration today, Shri Avinash S. Deshmukh, learned counsel for the applicants tendered across the bar the

Government Resolution dated 02.02.2024, whereby the Government has resolved to apply the Old Pension Scheme in the case of the employees, who joined the Government services on the strength of the recruitment carried out for which the advertisement was published prior to 01.11.2005. Learned counsel submitted that the applicants fully comply the aforesaid conditions hence are entitled for application of the Old Pension Scheme.

5. On instructions, learned counsel submitted that after issuance of the aforesaid G.R., within the period of 01 month thereof, all the applicants have duly exercised their options with the appointing authorities. Learned counsel submitted that the respondents, as provided in the said G.R., were expected to take a decision within the period of 02 months on the options exercised by the applicants. Learned counsel submitted that since the respondents did not move further, the applicants are pressing the request made in the present O.A. being covered under the G.R. dated 02.02.2024. Learned counsel urged that since all the applicants are complying with all the requirements as envisaged in the said G.R., the Original Application filed by the applicants be allowed in toto.

6. Shri V.R. Bhumkar, learned Presenting Officer though sought to reiterate the contentions raised in the affidavit in reply and submitted that the applicants since joined the Government services sometime in the year 2006 i.e. after 01.11.2005, they are not entitled for application of the Old Pension Scheme in their matters. In view of the G.R. dated 02.02.2024 the contentions raised by the respondents in their affidavit in reply and the argument as has been advanced by the learned Presenting Officer based on the averments taken in the affidavit in reply, has to be turned down.

7. After having scrutinized the documents there remains no doubt that all the applicants entered into the Government services as a result of the recruitment carried out on the basis of the advertisement issued on 08.04.2004. Copy of the advertisement is placed on record. Moreover, this fact is not disputed by the respondents. As submitted by the learned counsel, the applicants have duly exercised their options for opting the Old Pension Scheme within 01 month from issuance of G.R. dated 02.02.2024. Today, the learned counsel for the applicants has tendered across the bar one such communication dated 25.02.2024 to demonstrate that the applicants have exercised the options and accordingly the

Principal of the Institute has forwarded the said option to the Director of Education for further action. This fact has also not been disputed by the respondents.

8. We have carefully perused the G.R. dated 02.02.2024. Respondents have not disputed that the applicants entered into Government service through the recruitment carried out pursuant to the advertisement published on 08.04.2004 i.e. much prior to 01.11.2005. It is also not in dispute that the applicants have exercised their options for application of old pension scheme within the stipulated period. Applicants are, thus, satisfying the terms and conditions incorporated in Government Resolution dated 02.02.2024. We have, therefore, no hesitation in holding that the applicants are entitled for application of the Old Pension Scheme. In the circumstances, we are inclined to allow the Original Application with the following order:-

ORDER

- (i) The applicants are held entitled for application of Old Pension Scheme.
- (ii) The respondents are directed to process the cases of these applicants expeditiously and make them applicable the Old Pension Scheme within 03 months from the date of this order.

(iii) The Original Application stands allowed in the aforesaid terms, however, without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 23.08.2024

ARJ O.A. NO. 72 OF 2023 BENEFIT OF OPS
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