



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9010 OF 2018

Trimbak S/o Rangrao Kulkarni (Sugaonkar)
Age: 80 years, Occu: Retired Head Master,
R/o: Bhagirathi Vidyalay, Parbhani.
Died during pendency of this petition, hence,
his L.Rs. are brought on record vide order
dated 20.09.2025 in C.A. No.7386/2025:-

1-A. Mahesh s/o Trimbakrao Sugaonkar,
Age: 58 years, Occu: Service,
R/o. Flat No. 16, Gulab (C), Rana Nagar,
Opp. Atithi Hotel, Jalna Road,
Aurangabad, Tq. & Dist. Aurangabad.

1-B. Dinesh s/o Trimbakrao Sugaonkar,
Age: 48 years, Occu: Legal Practitioner,
R/o. Flat No. 2-B, Gulmohar Apartment,
Rana Nagar, Opp. Atithi Hotel,
Jalna Road, Aurangabad,
Tq. & Dist. Aurangabad.

...PETITIONERS

-VERSUS-

1. The State of Maharashtra.
Through its Chief Secretary,
Mantralaya, Mumbai.
2. The Secretary,
School Education Department,
Department, Mantralaya.
Mumbai-32.
3. Deputy Director of Education,
Secondary and Higher Secondary,
Aurangabad Division,

Aurangabad, Maharashtra.

4. The Accountant General – II,
Accounts and Entitlement,
Maharashtra, Nagpur.

...RESPONDENTS

...
Shri Vivek J. Dhage, Advocate for the petitioner.
Smt. Jayashri P. Reddy, AGP for the respondents/ State.
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CORAM : KISHORE C. SANT
&
SUSHIL M. GHODESWAR, JJ.

Reserved on : 02 February 2026

Pronounced on : 11 February 2026

JUDGMENT (*Per Sushil M. Ghodeswar, J.*) :-

1. Heard.
2. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.
3. The original petitioner, through this writ petition filed under Articles 226 and 227 of the Constitution of India, has prayed for issuance of directions to respondent Nos.1 to 3 to count the period of service rendered by him from 01.08.1986 to 30.04.1996 in Prabhavati Vidyalaya School run by Swami

Vivekanand Shikshan Sanstha and also to compute the service rendered by him in the Zilla Parishad school, district Parbhani and re-fix his pension accordingly. The petitioner also prayed for quashing and setting aside the order dated 15.03.2010 passed by respondent No.1 Principal Secretary, Government of Maharashtra whereby, the request of the petitioner to count both services for the purpose of pensionary benefits, came to be rejected.

4. During the pendency of this petition, the petitioner expired, therefore, his legal heirs are brought on record vide order dated 20.09.2025 passed by this Court in Civil Application No.7386/2025.

5. According to the petitioner, he rendered services as Assistant Teacher in Zilla Parishad High School, Purna, District Parbhani between 26.06.1959 and 31.07.1986 i.e. for about 27 years. On 31.07.1986, he had opted for voluntary retirement from the Zilla Parishad school and immediately on the next day, he joined as Headmaster in Prabhavati Vidyalaya, Parbhani, run by Swami Vivekanand Shikshan Sanstha. Prabhavati Vidyalaya is the grant-in-aid school and he worked there till his retirement on 30.04.1996 i.e. from 01.08.1986 to 30.04.1996. After his

superannuation, the pension proposal was forwarded by the Education Department to the Accountant General, State of Maharashtra, Nagpur, to count the services rendered by the petitioner in both schools, for grant of combined pension. However, the said pension proposal was sent back by respondent No.4/ Accountant General vide letter dated 27.03.2000 to respondent No.3/Deputy Director of Education, Aurangabad, for re-examination by stating therein that Rules 39 and 153 of the Maharashtra Civil Services (Pension) Rules, 1982 (for short, 'the Pension Rules, 1982'), prohibit counting of new service as qualifying service for combining two services for pension since the petitioner had obtained voluntary retirement and, therefore, he is not eligible for counting his new service. Thereafter, the petitioner had submitted several representations to the respondent authorities requesting to consider his case and count his services rendered at Prabhavati Vidyalyaya. The petitioner relied upon Rule 153 of the Pension Rules, 1982 as well as the resolutions and circulars issued by the State of Maharashtra from time to time.

6. It is the case of the petitioner that he had also

approached the learned Lok-Ayukta of Maharashtra by filing representation dated 17.12.2008. According to the petitioner, the learned Lok-Ayukta had recommended his case to the Government of Maharashtra for counting his new service for pensionary benefits. However, on 15.03.2010, respondent No.1/ Principal Secretary refused to accept the recommendation of the learned Lok-Ayukta for the reason that after voluntary retirement from the Zilla Parishad school, subsequent service of the petitioner cannot be considered for pensionary benefits. Thereafter, the petitioner again approached the learned Lok-Ayukta and also persuaded the respondent authorities by filing representations till 22.02.2016. However, there is no response from the authorities. Hence, the petitioner has approached this Court by filing this petition.

7. The learned advocate Shri Dhage appearing for the petitioner submitted that respondent No.1 has committed error in not considering the recommendation of the learned Lok-Ayukta. According to him, as per rule 153 of the Pension Rules, 1982, the service rendered by the petitioner at Prabhavati School was itself pensionable and as per the said rule, if new service is

pensionable, it must be combined for calculating pension with the services previously rendered by the petitioner. The learned advocate submitted that there is no legal prohibition in statute for not considering subsequent services rendered by the employee for the purpose of assessing pensionary benefits. The learned advocate has relied upon the judgment delivered by the Hon'ble Supreme Court in ***Madhukar vs. State of Maharashtra and others, (2014) 15 SCC 565***, to contend that the Hon'ble Supreme Court while dealing with identical fact situation, has directed the Government to consider the past service of the claimant therein for the purpose of computing pension. The learned advocate, therefore, prayed for allowing this petition.

8. *Per contra*, the learned AGP Mrs.Reddy strongly opposed the contentions of the petitioner. She relied upon the affidavit in reply dated 10.07.2019 filed on behalf of the respondent authorities and submitted that the management of Prabhavati Vidyalaya, while fixing the pay of the petitioner for the post of Headmaster, had not considered Rule 157 of the Pension Rules, 1982 and had not deducted pension amount while fixing the pay of the petitioner. According to her, only 33 years

qualified service is to be considered for the purpose of pension. The petitioner had completed 27 years of qualified service till his voluntary retirement. As per Rule 66(A) of the Pension Rules, 1982, after voluntary retirement, five years qualified services were added and the pensionary benefits were given for total period of 32 years to the petitioner. According to the learned AGP, the petitioner has received double benefit of previous pension and the pay scale of the post of Headmaster held by him after voluntary retirement. As such, the petitioner is not entitled for reliefs claimed in the petition, therefore, the petition is liable to be dismissed.

9. After hearing the learned advocates for the rival parties and perusing the record with their assistance, it is undisputed that the petitioner had initially rendered the services in Zilla Parishad School as an Assistant Teacher and after taking voluntary retirement on 31.07.1986, he immediately joined as Headmaster on 01.08.1986 in grant-in-aid Padmavati School run by private management, which post is also pensionable and he finally superannuated on 30.04.1996. There is no break in service. Once both the services are pensionable and governed by

statutory pension rules, the subsequent service is required to be clubbed with the earlier service for the purpose of pensionary benefits.

10. The additional affidavit dated 28.01.2026 filed on behalf of respondent No.3 seeks to contend that Rule 153 of the Maharashtra Civil Services (Pension) Rules, 1982 is an exceptional provision applicable only in cases where an employee is compelled to retire due to closure of institution, abolition of post or similar administrative exigencies. The said contention cannot be accepted. Rule 153 does not carve out any such restriction or limitation. The first part of Rule 153 clarifies that re-employment ordinarily does not qualify for a second pension. However, the latter part of the Rule is explicit and mandatorily provides that where the new service is pensionable, it must be combined with the service previously rendered and the whole service be treated as one service for the purpose of calculating pension. Once it is undisputed that the post of Headmaster in Prabhavati Vidyalaya is pensionable, the consequence under Rule 153 necessarily follows.

11. The reliance placed by the respondents State

authorities on Rule 66 and Rule 66-A of the Maharashtra Civil Services (Pension) Rules, 1982, is misconceived. The said provisions govern voluntary retirement and the grant of pension with addition of qualifying service subject to the condition that the total qualifying service does not exceed 33 years and it does not take the employee beyond the date of superannuation. Rules 66 and 66-A do not operate as a bar to the counting of subsequent pensionable service. Rule 153 operates in a distinct field and applies where, after retirement, a Government servant renders further service in a pensionable post. Merely because pension was initially sanctioned by giving weightage to Rule 66-A, the statutory mandate under Rule 153 to combine the earlier and subsequent pensionable services, is not taken away. Both provisions are required to be harmoniously construed so as to give effect to the scheme of the Pension Rules.

12. The objection regarding alleged double benefit raised by the State Government, is wholly untenable. The record reveals that while fixing the pay of the petitioner after joining Prabhavati Vidyalaya, pension was taken into account and any excess amount was subsequently recovered and refunded to the

Government. The petitioner seeks only single consolidated pension by treating both pensionable services as one continuous service. Such claim does not amount to grant of double pension.

13. The law on the issue is no longer *res-integra* and it is conclusively settled by the decision of the Hon'ble Supreme Court in *Madhukar vs. State of Maharashtra and others*, (2014) 15 SCC 565, wherein it has been held that subsequent pensionable service rendered after retirement is liable to be counted along with past service for determination of pensionary benefits.

14. Considering the above discussion, the impugned order dated 15.03.2010 is, therefore, contrary to the statutory rules and cannot be sustained. Hence, the petitioner succeeds. We pass the following order:-

ORDER

- (a) The writ petition is allowed.
- (b) The impugned order dated 15.03.2010 passed by respondent No.1 is quashed and set aside.
- (c) The respondents are directed to count and club the service rendered by the petitioner from 26.06.1959 to 31.07.1986

in Zilla Parishad service and from 01.08.1986 to 30.04.1996 in Prabhavati Vidyalaya, Parbhani, as one continuous qualifying service for the purpose of pension, in terms of Rule 153 of the Maharashtra Civil Services (Pension) Rules, 1982.

(d) The respondents shall re-fix the pensionary benefits accordingly on the basis of the average pensionable pay drawn during the last ten months of the petitioner's final service, after giving adjustment of amounts already paid or recovered, if any, and release all consequential benefits to the legal heirs of the deceased petitioner.

(e) The aforesaid exercise shall be completed within a period of FOUR MONTHS from the date of this judgment.

(f) In the event of failure to complete the above exercise within the stipulated period, the respondents shall pay interest at the rate of 6% per annum on the arrears of pensionary benefits from the date of accrual till actual payment.

15. Rule is made absolute in the above terms.

kps (SUSHIL M. GHODESWAR, J.)

(KISHORE C. SANT, J.)