



Vinita

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 558 OF 2022

Dr. Gopakumar V., son of Velayudhan
Pilai, aged 62 years, occupation
Retired Librarian, residing at H. No.
T.C.64/1859-1, VRA-21 Madathil
Nada, Near Parasurama Temple,
Thiruvallam, Thiruvananthapuram,
Ambalathara, Thiruvananthapuram,
Kerala, 695027 ... Petitioner.

V e r s u s

1. State of Goa, through its Chief
Secretary, Having his Office at
Secretariat, Porvorim, Goa, 403
501
2. Registrar, Goa University,
Taleigao Plateau, Goa, 403 206.
3. Director, Directorate of Higher
Education, Government of Goa,
Porvorim, Goa, 403 501
4. State of Kerala, Through its
Chief Secretary, Government
Secretariat, Statue Trivandrum,
Kerala, 695 001.
5. Union of India, Through its
Secretary, Ministry of
Personnel Public Grievances
and Pensions, Department of
Pension and Pensioners
Welfare, New Delhi, North
Block, New Delhi - 110 001 Respondents.

Mr Shashikant N. Joshi and Ms Sharlene Fernandes and Ms Sneha Naik, Advocates for the petitioner.

Mr Devidas Pangam, Advocate General with Mr Deep Shirodkar, Addl. Govt. Advocate for respondent nos. 1 and 3.

Ms A. A. Agni, Senior Advocate with Mr Junaid Shaikh, Advocate for the respondent no. 2.

Mr Devidas Pangam, Advocate General with Ms Maria Correia, Addl. Govt. Advocate for respondent no.4.

Mr Somnath Karpe, Central Govt. Standing Counsel with Ms Samisha Vaigankar, Advocate for respondent no. 5.

**CORAM: BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.**

Date: 3rd July 2025.

JUDGMENT (PER NIVEDITA P. MEHTA, J).

1. The present petition prays for a writ of mandamus directing the respondents to disburse the petitioner's pensionary benefits, including gratuity, along with interest accrued from the date the benefits became due until the date of actual payment.

2. The brief facts of the case are that the petitioner initially joined the Institute of Co-operative Management, Trivandrum, as a Librarian on 10.10.1984. He served there for five years and was relieved from service on October 10, 1989, upon his request. Thereafter, the petitioner joined Ernakulam Law College on 12.10.1989 and continued there until 06.01.1992, when he was relieved, following his transfer to the Government Central

Polytechnic, Trivandrum. The petitioner assumed duties at Government Central Polytechnic on 08.01.1992 and served there until 01.12.2000, at which point he was transferred to Government College, Kasaragod. He served at Kasaragod from 02.12.2000 to 08.06.2008. Subsequently, he held the position of Selection Grade Librarian at University College, Thiruvananthapuram, from 09.06.2008 to 13.01.2010.

3. Goa University published an advertisement in national newspapers inviting applications for the position of 'University Librarian.' The petitioner applied for the post through proper channel and, having been found eligible, was called for an interview via a letter dated 12.08.2009. The interview was scheduled for 07.09.2009. The Directorate of Higher Education, Government of Kerala, issued a No Objection Certificate permitting the petitioner to attend the interview. Upon being selected, the petitioner was offered an appointment for the post of Librarian in Pay Band PB-4 (₹37,400–67,000) with a Grade Pay of ₹4,000, along with other admissible allowances, subject to a probationary period of two years. The petitioner accepted the offer and consequently, an appointment order was issued by the Registrar, Goa University, under Ref No. GU/IV/SRL/331/2010/1773A dated 15.01.2010. Prior to joining Goa University, the petitioner obtained permission from the Government of Kerala to retain his lien on his previous post as Selection Grade Librarian. This permission was conveyed by letter dated 13.01.2010.

4. The petitioner states that on the date of joining Goa University, he had completed 20 years and 2 months of regular service under the Government of

Kerala. He was relieved from University College, Thiruvananthapuram, on 13.01.2010 and joined Goa University on 15.01.2010. The petitioner was thereafter confirmed in the Post of Librarian w.e.f. 15.01.2012, and a formal letter of confirmation was issued to him by Goa University. The age of retirement for the said post was 60 years. Consequently, the petitioner retired on attaining the age of superannuation on 30.06.2021, having rendered 11 years and 5 months of service at Goa University. While the petitioner was in service, the Assistant Registrar of Goa University, by letter dated 24.07.2012, requested the Principal Secretary, Higher Education Department, Government of Kerala, to arrange the transfer of pro-rata retirement benefits so as to recognize the petitioner's prior service. However, the Higher Education Department, Government of Kerala, through a reply dated 06.03.2013, rejected the said request on the grounds that the petitioner was not absorbed by Goa University and that his appointment there was treated as a fresh appointment.

5. Dissatisfied with the rejection of pro-rata pension benefits, the petitioner filed a writ petition before the Hon'ble High Court of Kerala challenging the communication dated 06.03.2013. Vide Judgment and order dated 01.10.2019, the writ petition was disposed of, granting liberty to the petitioner to submit a fresh representation to the State Government. Pursuant thereto, the petitioner submitted a representation, vide letter dated 08.11.2021, to the Under Secretary, Government of Kerala. However, the petitioner was subsequently informed that his representation had been rejected.

6. The petitioner, by way of an additional affidavit, submitted that the Hon'ble High Court Kerala in W.P.(C) No. 39976/2017(v) had not foreclosed his right to claim his retirement benefits following his retirement from Goa University on 30.06.2021. It was the duty of the respondent-University, considering that the petitioner had rendered 11 years and 5 months (from 15.01.2010 to 30.06.2021) of service at Goa University, to process his pension papers and forward the same to the Government of Goa, being the designated pension-paying authority. The petitioner did not approach the Hon'ble High Court of Kerala, thereafter, as he had already retired from Goa University on 30.06.2021 and was entitled to receive all retirement dues from the State of Goa. However, despite his retirement, the petitioner did not receive any of the retirement dues from the State of Goa, including pension, gratuity, leave encashment, or provident fund contributions. Considering these circumstances, the present petition has been filed.

7. The learned Counsel, Mr. Joshi, for the petitioner advanced the following arguments:

7.1 That the petitioner had already retired from Goa University on 30.06.2021 and was consequently entitled to all retirement dues from the State of Goa. It was for this reason that no further proceedings were initiated before the Hon'ble High Court of Kerala, as the liability to disburse the said retirement benefits squarely rests with the Government of Goa.

7.2 Pension forms an integral part of the Retirement Dues and is a Beneficial Provision, intending to safeguard the rights of retired employees.

The Government of India, through its Department of Personnel Administrative Reforms, communicated by the letter under No.3(20)/Pen.(A)/79 dated 31.03.1982, addressed to all the State Governments that the Government of India had dispensed with the system of sharing pension liability between the Central and State Governments. In light of the same, the State of Goa cannot insist upon the Government of Kerala to share the pro-rata pension liabilities of the petitioner.

7.3 The petitioner's case is squarely covered under Rule 13 of the Central Civil Services (Pension) Rules 2021. This Rule stipulates that where a Government Servant is permanently transferred to a Service or post from one State to another, without interruption in service, by substantive appointment made with prior permission or concurrence of the previous State Government, such Government Servant shall be entitled to the benefits of the Pension Rules. The Rule further provides that the liability of the Pension and Gratuity covered under Rule 13 shall be borne by the Central Government.

7.4 The States of Goa and Kerala are the two states in the Union of India, and as such, any dispute between them should not deprive the petitioner of his rightful retirement dues and pensionary benefits. Furthermore, the Government of India has, from time to time, issued instructions, directing all the Central and State Government Institutions to prepare the pension papers at least one year prior to the date of an employee's retirement. This is to ensure that the retired government servant begins to receive their pension immediately upon cessation of service without any undue delay or break.

7.5 The petitioner has rendered a total of more than 31 years and 7 months of continuous service, comprising 20 years and 2 months under the Government of Kerala and 11 years and 5 months at Goa University. There was no break in service during this entire period. Accordingly, the petitioner is entitled to full pension and gratuity.

7.6 The petitioner having retired from Goa University, it is the primary obligation of Goa University to ensure the disbursement of his retirement dues. The pensionary benefits cannot be denied either by the State Government or Goa University on the pretext that the Government of Kerala refused to contribute its pro-rata dues towards the pensionary benefits.

7.7 The Hon'ble Supreme Court of India, as well as other superior Courts, including this Court, have consistently affirmed the right of retired government employees to receive their pensionary benefits promptly upon retirement. There are several instances where this Court has directed the payment of 15% per annum on delayed retirement benefits. In doing so, the Court has opined that even in the absence of a specific statute or administrative provision mandating such interest, the grant of interest is justified by invoking Articles 14, 19, and 21 of the Constitution of India.

7.8 The Counsel for the petitioner placed reliance on the following judgments in support of his contention that the petitioner has an enforceable right to receive a pension from the State Government of Goa and Goa University, from which he stood retired.

*i) Vinod Kanjibhai Bhagora Vs State of Gujarat and ors.*¹

*ii) Mr D. S. Nakara and others Vs Union of India*².

8. Mr Pangam, learned Advocate General appearing on behalf of the State Government-respondent no.1 and Ms Agni, learned Senior Counsel appearing on behalf of the respondent no. 2, made the following submissions:

8.1 The petitioner had rendered his services at Goa University for 11 years and 5 months, i.e., from 15.01.2010 to 30.06.2021. As such, Goa University was to process the petitioner's pension papers and forward the same to the Government of Goa, which is the designated pension paying authority. It was further submitted that vide letter dated 22.06.2012, addressed to the Registrar, Goa University, the petitioner has stated that he had been contributing to the Provident Fund account under the Kerala Government, during his service of approximately 20 years there. The petitioner expressed his desire to continue under the same pension scheme and requested the Registrar of Goa University to take necessary steps in that regard.

8.2 The petitioner was called upon to submit the necessary forms as required under the New Pension Scheme. However, the petitioner failed to comply with the same by not submitting the forms as required under the New Contributory Pension Scheme. Consequently, the Registrar of Goa University was informed that the petitioner was neither covered under the NPS (New

1 2024(2) SCR 155

2 (1983)1 SCC 305

Pension Scheme) nor GPF (General Provident Fund) as he had not submitted the requisite forms mandated under the New Pension Scheme.

8.3 Goa University had sent multiple letters and reminders to the Government of Kerala requesting to transfer the petitioner's pro-rata pension benefit. However, the Kerala Government declined these requests. The writ petition no. (C) No. 39976/2017(v) filed before the Kerala High Court, as well as the subsequent representation made before the Kerala Government, were both rejected. In these circumstances, neither Goa University nor the State of Goa can take any further steps in this regard.

8.4 Rule 13 of the 2021 Pension Rules has no application to the petitioner's case. It was pointed out that the petitioner's claim for the grant of retirement benefits was referred to the Director of Higher Education through various communications from the Directorate. The respondent no. 3, i.e., the Director of Higher Education, informed that the petitioner had been drawing salary for over 10 years without a PRAN (Permanent Retirement Account Number).

8.5 Under Statute SB-8 of the Goa University, it is provided that the pension rules applicable to the government employees of the State of Goa are equally applicable to the non-teaching staff of Goa University. Goa University also made efforts to facilitate the grant of pension to the petitioner by writing to the Government of Kerala, as well as by writing to the Government of Goa.

8.6 The petitioner cannot impose the liability for payment of pension, in respect of the period he served under the Kerala Government, upon the State

of Goa or Goa University. The broad plea advanced by the petitioner that the State Government ought to take up the issue of contribution on its own with the State of Kerala is baseless and not well grounded in law.

9. After hearing the learned counsels for the respective parties, rival contentions fall for our consideration

10. Admittedly the petitioner had addressed a letter dated 22.06.2012 wherein it is stated that the service particulars of the petitioner were duly recorded in the service card maintained by the Accountant General (A&E) Kottayam Branch, Kerala, reflecting that he had rendered more than 20 years of service under the Government of Kerala and was subscribing to the PF Account with no. COLL 7608. In the said letter, he expressed his desire to continue under the same pension scheme that the petitioner had been part of during his service under the Government of Kerala. In turn, respondent no.2 University vide letter No.GU/Admn /PA/VG/543/2012/1852 dated 24.07.2012 addressed to the Principal Secretary, Higher Education Department, Government of Kerala, asking for the transfer of pro-rata retirement benefits in respect of the petitioner. However, in reply, the Additional Secretary to the Government of Kerala clarified that the petitioner had not been absorbed by the Goa University, but was given a fresh appointment, and as such, the petitioner is not eligible for pro-rata pension benefits as contemplated in the G.O.(P) No. 893/78/Fin dated 30.12.1978.

11. Moreover, the petitioner did not receive his retirement dues mainly because the petitioner failed to submit the requisite forms under the National

Pension System, which is a defined-contribution scheme that allows an individual to make regular contributions towards their retirement account. The Director of Higher Education, respondent no. 3, in the letter dated 04.01.2021, categorically stated that although the petitioner was appointed as Librarian at Goa University with effect from 15.01.2010, he had neither filled the NPS Form nor the GPF form. The petitioner continued to draw his salary for over ten years without obtaining a PRAN (Permanent Retirement Account Number). In such circumstances, the allegation of receiving step-motherly treatment from the State of Goa does not arise. The submission of the petitioner that the State of Goa is liable to pay the retirement dues is not substantiated by any statutory provision.

12. Accordingly, the Directorate of Higher Education has clarified that, in the absence of compliance with the requisite documents mandated for entitlement to retirement benefits, the petitioner's claim cannot be sustained. Merely because the petitioner retired from Goa University, it does not mean that the responsibility to pay pensionary benefits and other retirement dues rests solely with the State of Goa or Goa University. In fact, Goa University had duly addressed a letter to the Kerala Government requesting the transfer of the pro-rata pensionary amount for the period of service rendered by the petitioner under the Kerala Government, to consider his request for pensionary benefits under Goa University, but the same was turned down. However, neither the Government of Goa nor the Goa University can be made liable to pay the pensionary benefit for a period during which the petitioner was

rendering services under the Government of Kerala. The petitioner had filed a writ petition before the Kerala High Court, which disposed of his petition with a direction to make a representation. The representation was also rejected vide communication dated 08.11.2021. Under Statute SB-8 of the Goa University, it is provided that the pension rules applicable to the government employees under the State of Goa would apply to the non-teaching staff of the Goa University. The petitioner, however, cannot impose the liability for payment of pension, in respect of his service under the Kerala Government, upon the State of Goa or Goa University. The submission of the petitioner that the State of Goa is liable to pay the retirement dues is not substantiated by any provision of law.

13. There is no provision for pro-rata contribution under the Central Civil Services (Pension) Rules, 1972, as Rules 42 to 47, which earlier governed such contributions, were deleted by notification dated 01.08.1980. Furthermore, the petitioner failed to avail the benefits of the new contribution scheme to which he was entitled. In this context, the submission that the State of Goa ought to have independently taken up the matter of pro-rata contribution with the State of Kerala, whether on its own or through the Inter-State Council constituted under Article 263 of the Constitution of India, is wholly misconceived.

14. The case of *D. S. Nakara* (supra), was regarding the case of revision of pensionary benefits and classification of pensioners into two groups by drawing a cut-off date and granting the revised pensionary benefits to

employees retiring on or after the cut-off date. The criterion made applicable was “being in service and retiring subsequent to the specified date”. It was held that the employees who retired prior to a specified date and those who retired thereafter formed one class of pensioners. The attempt to classify them into separate classes/groups for pensionary benefits was not founded on any intelligible differentia, which has a rational nexus with the object sought to be achieved. Such a criterion is violative of Article 14 of the Constitution of India as it was both arbitrary and discriminatory in nature. The facts of the *D. S. Nakara* (supra) will not apply to the facts of the present case and therefore are distinguishable.

15. The petitioner has also relied on the Judgement of *Vinod Kanjibhai Bhagora* (supra), wherein the Hon’ble Apex Court was considering Rule 25 of the Gujrat Civil Services (Pension) Rules, 2022, which contemplates that qualifying service to calculate terminal benefits/pensionary benefits under the Pension Rules would include prior services rendered by such an person under *inter alia* the Central Government provided that (i) the employment of such person under the Central Government encompassed an underlying pension scheme; and (ii) such person came to be absorbed by the State Government. However, the facts of the present case stand on a fundamentally different footing, as the petitioner was not absorbed by the State Government of Goa but was instead appointed afresh. Consequently, the principles laid down in *Vinod Kanjibhai Bhagora* (supra) have no application to the petitioner’s claim.

16. The Government of India, through the Ministry of Finance, Department of Economic Affairs, vide notification no 5/7/2003-ECB and Pension Rules dated 22.12.2003, introduced a new Restructured Defined Contribution Pension System, thereby replacing the existing Defined Benefit Pension System. The new system was made mandatory for all recruits to the Central Government Service with effect from 01.01.2004, excluding personnel of the Armed Forces. Accordingly, the Government of India amended Rule (2) of the Central Civil Services (Pension) Rules, 1972, w.e.f. 01.01.2004 and also Rule (2) of the Central Civil Services (Commutation of Pension) Rules, 1981 and Rule (2) of the Central Civil Services (Extraordinary Pension) Rules, 1939, vide three separate Notification Nos. 38/16/2003-P&PW(A) dated 30.12.2003 and vide S.O.1483(E), S.O.1484 (E) and S.O. 1487 (E), respectively.

17. The Government of Goa after due consideration decided to adopt the Government of India's said New Restructured Defined Contribution Pension System for all recruits to the Central Government Service, as well as for recruits in all education and other institutions of the State of Goa whose salaries or pensions are debited from Consolidated Fund of the State of Goa, with effect from 05.08.2005.

18. The notification dated 05.08.2005, also specifically mentions that:

“(c) Immediately on joining Government service, the Government servants will require to provide particulars such as the name, designation, scale of pay, date of birth,

and nominees) for the Fund and relationship of the nominee etc. in the prescribed form (Annexure-I). The Head of Office/Drawing and Disbursing Officer concerned will be responsible for obtaining these information from all Government servants, covering under the New Pension System. Consolidated information for all those who have joined service during the month shall be submitted by Head of Office/ /Drawing and Disbursing Officer concerned in the prescribed form (Annexure-II) to the Director of Accounts (GPF Section) by 7th of the following month. Annexure-I will be retained by the Head of Office/Drawing and Disbursing Officer.”

The petitioner failed to comply with the said requirements as mentioned in the aforesaid Notification, to make him entitled for the New Defined Contribution Scheme.

19. Upon considering the facts of the case, the relevant statutory provisions, and the submissions advanced, this Court finds no merit or substance in the petitioner’s claim. The petitioner’s appointment at Goa University was a fresh appointment, without absorption in continuity of his prior service under the Government of Kerala. The question of pro-rata pension liability does not arise as Rules 42 to 47 of the CCS Rules, 1972, which earlier governed such transfers, stood deleted by notification dated 01.08.1980. The New Pension Scheme was introduced from 01.01.2004 and adopted by Goa on 05.08.2005. The petitioner failed to submit the required forms or secure a PRAN, despite ample opportunity. In these circumstances, with no statutory obligation upon

the respondents and the judgments relied upon being clearly distinguishable, this Court finds no ground to grant the reliefs sought.

20. It is also relevant to note that the petitioner failed to exercise due diligence by not submitting the necessary documentation under the applicable pension scheme, despite ample opportunity during his tenure. Significantly, the State of Goa and Goa University have demonstrated their bona fides by addressing communications to the Government of Kerala seeking transfer of the petitioner's pro-rata pensionary dues. In these circumstances, it is clear that the matter lies beyond their control, and such omissions on the petitioner's part cannot override the statutory scheme or saddle the respondents with liability contrary to law.

21. In light of the foregoing discussion, this Court finds no ground to grant the relief as sought. Accordingly, the present writ petition stands dismissed.

NIVEDITA P. MEHTA, J.

BHARATI DANGRE, J.