

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

61 WRIT PETITION NO.8226 OF 2021

SHARAD PADMAKAR CHAUDHARI AND ANOTHER
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

...

Advocate for Petitioners: Mr. Vilas S Panpatte
AGP for Respondents/State: Mr. S. P. Tiwari

...

AND

...

71 WRIT PETITION NO.8236 OF 2021

DATTATRAYA PANDURANG KARHALE
VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

...

Advocate for Petitioners: Mr. Vilas S Panpatte
AGP for Respondents/State: Mr. A. R. Kale

...

AND

...

74 WRIT PETITION NO.8239 OF 2021

LOTAN YUVARAJ BIRHADE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners: Mr. Vilas S Panpatte
AGP for Respondents/State: Mrs. V. N. Patil-Jadhav

...

AND

...

76 WRIT PETITION NO.8241 OF 2021

DATTATRAY SHRAVAN SALUNKE
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners: Mr. Vilas S Panpatte
AGP for Respondents/State: Mr. P. K. Lakhotiya

...

**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE: 02nd AUGUST, 2021

PER COURT:

1. The proposals seeking approval to the transfer of the petitioners from unaided to aided posts are approved however in a phase-wise grant-in-aid. According to the learned Counsel for the petitioners, the petitioners had put-in more than 3 years of service on unaided posts before being transferred to the aided posts.

2. We have heard the learned A.G.P.

3. The particulars of the date of appointment on unaided posts, the date of approval to their appointments on unaided posts and the dates of transfer are reproduced herewith-

W.P. No.	Name of Petitioners	Date of Appointment w.e.f.	Date of Approval	Date of Transfer w.e.f.	Name of the Authority granted approval to transfer
8226/2021	1.Sharad s/o Padmakar Chaudhari 2.Narayan s/o Gangaram Patil	24.06.2013	26.12.2014 (P.No.18)	01.07.2020 (P.No.22) 01.02.2020 (P.No.24)	24.09.2020 (P.No.28&33) Dy.Director of Education, Nashik
8236/2021	Dattatraya s/o Pandurang	12.11.2012	26.03.2013 15.01.2015 (P.No.22&25)	01.06.2020 (P.No.28)	18.09.2020 (P.No.31) Education

	Karhale				Officer (Sec.)
8329/ 2021	1. Lotan s/o Yuvaraj Birhade 2. Vandana d/o Dharamsing Sonawane 3. Madhuri d/o Bhaidas Patil 4. Vandana d/o Bhalerao Deshmukh 5. Rita d/o Arun Bhairav	17.06.2010 14.06.2010 15.06.2012 14.06.2010 21.07.2009	24.11.2013 24.11.2013 24.11.2012 24.11.2013 24.11.2013 (P.No.21 to 30)	15.06.2019 22.12.2018 15.06.2017 02.11.2017 02.11.2017 (P.No.31 to 40)	28.12.2020 23.01.2019 28.12.2017 05.05.2018 05.05.2018 (P.No.47 to 55) Dy. Director of Education, Nashik
8241/ 2021	Dattatray s/o Shravan Salunke	15.06.2015 (P.No.22)	30.08.2016 (P.No.24)	15.06.2018 (P.No. 26)	16.02.2019 (P.No.28) Dy. Director of Education, Nashik (on Honorarium)

4. The authority has placed reliance upon the Circular dated 28.06.2016 while granting approval in a phase-wise manner.

5. We have under Judgment and Order dated 04.07.2019 in Writ Petition No. 1493 of 2018 with connected writ petitions observed that some of the clauses of the Circular dated 28.06.2016 are erroneous.

6. In the said Judgment, we have held that if a person has worked for 3 years or more on unaided

post prior to transfer to the aided post and if is transferred to the 100% grant-in-aid post, then in that case the approval ought to be on 100% grant-in-aid post. Referring to the chart above, it appears that all these petitioners have worked for more than 3 years on unaided posts before being transferred to the aided posts.

7. In light of the above, the impugned orders to the extent of granting approval in phase-wise manner is quashed and set aside.

8. In case, the authority is satisfied that the transfer of the petitioners are on 100% grant-in-aid posts and the petitioners have rendered services for 3 years or more as an Assistant Teacher on unaided posts, then in that case the approval ought to be on 100% grant-in-aid posts as an Assistant Teacher.

9. The authority shall consider the said aspect and take decision within a period of four (04) months.

10. We have passed the aforesaid order as the approval has been granted by the authority to the transfer of the petitioners from unaided to aided posts, meaning thereby, that, the authority is satisfied about the seniority, adherence to the roster and the qualification.

11. Writ Petition is accordingly disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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