

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO. 5794 OF 2021

RAVINDRA IRWANTRAO DASE
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

...
Mr.Pradeep Salunke, Advocate h/f.
Mr.V.G.Salgare, Advocate for the petitioner.
Mr.K.N.Lokhande, AGP for the respondent-
State.

...
WITH
925 WRIT PETITION NO.5838 OF 2021

VASANT BAPURAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

...
Mr.Pradeep Salunke, Advocate h/f.
Mr.V.G.Salgare, Advocate for the petitioner.
Mr.S.B.Yawalkar, Addl.G.P. for the
respondent-State.

...
CORAM: S.V.GANGAPURWALA &
SHRIKANT D.KULKARNI,JJ.
DATE : 06.04.2021.

P.C.

1] Proposals seeking approval to the
transfer of the petitioners on the aided are
allowed but on 40% grand in aid.

2] It appears that the petitioners initially appointed in the year 2013. The appointment of the petitioners on unaided post is also approved. The petitioners were transferred to the aided post on 26.09.2020 and 29.09.2020 respectively, after rendering almost 7 years of service on unaided post.

3] It is submitted that in both matters, the petitioners have worked on unaided posts almost for seven years.

4] We have in our judgment dated 04.07.2019 in Writ Petition No.1493 of 2018 with connected Writ Petitions held that some of the clauses of the Circular dated 28.06.2016 do not apply. It appears that the Education Officer, while granting approval to the appointment of petitioners as an Assistant Teacher from the date of transfer to the aided posts had granted approval on grant-in-aid in phase-wise manner to the effect that after five years, the petitioners would be granted approval on 20% grant in aid. The same would not be in tune with the order passed by this Court from time to time at this Bench and also at Principal Seat.

5] In case the petitioners are transferred on 100% grant-in-aid posts since the date of completion of three years, they shall be considered on 100% grant-in-aid posts. In case the petitioners are transferred on grant-in-aid posts, for example on 60%, then from the date of transfer, they would be on 60% grant-in-aid posts, but if the petitioners, after having completed three years on unaided posts and are transferred on 100% grant-in-aid posts, their services will have to be considered on 100% grant-in-aid posts. This aspect has been ignored by the Director of Education / Dy. Director of Education / Education Officer.

6] In light of above, the impugned order of granting approval in phase-wise manner is quashed and set aside and modified.

7] In case the Director of Education / Dy. Director of Education / Education Officer are satisfied about approval to the transfer of the petitioners on aided posts and if the petitioners have completed three years and more on unaided posts before they are transferred to aided posts on 100% grant-in-aid posts, then respondents—Director of

Education / Dy. Director of Education /
Education Officer shall consider grant of
approval to the transfer of the petitioners
on 100% grant-in-aid posts within a period of
six months.

8] Writ Petitions are disposed of. No
costs.

[SHRIKANT D.KULKARNI,J.] [S.V.GANGAPURWALA,J.]

DDC