

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

919 WRIT PETITION NO. 8258 OF 2021

AMOL PRABHAKAR PATIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND
922 WRIT PETITION NO.8261 OF 2021

DASHRATH GOVINDA SALUNKHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND
930 WRIT PETITION NO.8285 OF 2021

YOGITA KRUSHNADAS AHIRE
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL SECRETARY
AND OTHERS

Advocate for Petitioners : Mr. R.I. Wakade.
AGP for Respondent Nos. 1 to 3 in WP/8258/21 : Mr. A.R. Kale.
AGP for Respondent Nos. 1 to 4 in WP/8261/21 : Mr. S.P. Tiwari.
AGP for Respondent Nos. 1 to 3 in WP/8285/21 :
Mrs. V.N. Patil-Jadhav.

**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, JJ.
DATED : 03.08.2021**

PER COURT :

The proposal seeking approval to the transfer of the petitioner from unaided to aided post is approved but in a phase wise grant-in-aid.

2. It is the contention of the petitioners that the petitioners have worked on unaided post for more than five years before transfer to the aided posts. The aided posts to which the petitioners are transferred on 100% grant-in-aid for which the approval has to be on 100% grant-in-aid post.

3. The AGP waives service for respondent Nos. 1 to 3.

4. The petitioners have placed on record the charts giving the date of appointment on unaided post. The approval granted to the appointment on unaided and the date of transfer to the aided post. The same is reproduced as below :

Chart in Writ Petition No. 8258 of 2021

Sr. No.	W.P. No.	Name and qualification of employee	Date of appointment on unaided basis	Date of approval on unaided basis	How many years worked on unaided basis	Transfer date from unaided to aided w.e.f.	Name of the authority granted approval/ order to transfer on 20% grant-in-aid instead of 100%
1.		Shri. Amol Prabhakar Patil (B.A.B.Ed.) Open	01.12.12	14.08.13	08 Years	01.03.20	26.05.20 passed by Education Officer (Sec.), Zilla Parishad, Jalgaon.

2.		Shri. Gopal Kaduba Chaudhari (B.Sc. B.Ed.) Open	01.12.12	14.08.13	05 Years	01.08.18	31.08.18 passed by Education Officer (Sec.), Zilla Parishad, Jalgaon.
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Chart in Writ Petition No. 8261 of 2021

Sr. No.	Name and Qualification of Petitioner/Employee	Approval of "Assistant Teacher" on unaided basis w.e.f.	How many years worked on unaided basis.	Transfer date w.e.f.	Approval as "Assistant Teacher on 20% Grant-in-aid i.e. Aided basis w.e.f.
1.	Dashrath S/o. Govinda Salunkhe (B.A., B.Ed-English) Belongs to S.T. Category	Approval vide order dt. 12.08.13 w.e.f. 17.06.13	07 - years & 11 - Days	29.06.20	Approval vide order dt. 17.08.20 w.e.f. 29.06.20

Chart in Writ Petition No. 8285 of 2021

Sr. No.	WP /St. No.	Name and qualification of employee	Date of appointment on unaided basis	Date of Approval on unaided basis	How many years worked on unaided basis	Transfer date from unaided to aided w.e.f.	Name of the authority granted Approval/ order to transfer on 20% grant-in-aid instead of 100%
1.		Smt. Yogita Krushnadas	01.01.04	16.03.11	16 Years	01.07.20	12.11.20 passed by

		Ahire (H.S.C.D.Ed.)			& 06 Months		Education Officer (Sec.), Zilla Parishad, Jalgaon.
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5. It is submitted in all these matters, the petitioners have worked on unaided posts for four years and more.

6. We have in our judgment dated 4.7.2019 in Writ Petition No. 1493 of 2018 with connected Writ Petitions held that some of the clauses of the Circular dated 28.6.2016 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.

7. 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-posts, their services will have to be considered on 100% grant-in-posts. This aspect has been ignored by the Director of Education / Dy. Director of Education / Education Officer.

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

9. 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.

10. Writ Petitions disposed of. No costs.

(R.N. LADDHA, J.)

(S.V. GANGAPURWALA, J.)