

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

15 WRIT PETITION NO.7280 OF 2021

SHIVAJI DAGDUJI KUBDE AND OTHERS .. Petitioners
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS .. Respondents

...
Advocate for the Petitioners : Mr Anand V. Patil (Indrale)
AGP for the Respondent / State : Mr P.G. Borade

...
WITH

16 WRIT PETITION NO.7281 OF 2021

ASHA CHANDRAKANT KHAKE .. Petitioner
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS .. Respondents

...
Advocate for the Petitioner : Mr Anand V. Patil (Indrale)
AGP for the Respondent / State : Mr P.K. Lakhotiya

....

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

DATE : 05-07-2021

PER COURT : -

1. Proposals seeking approval to the transfer of the petitioners on the aided posts are allowed but on 40% grant-in-aid.

2. It appears that the petitioners are initially appointed in the year 2014. The appointment of the petitioners on unaided posts is also approved. The petitioners were transferred to the aided posts on 09.08.2019 and 01.09.2020 respectively, after rendering almost 7

years of service on unaided posts.

3. It is submitted that in both matters, the petitioners have worked on unaided posts almost for more than 3 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 the 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 Education Officer is 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 the 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.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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