

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

WRIT PETITION NO. 2278 OF 2021

Suvarnamala D/o Prakash Dudhate ... Petitioner.

Versus

The State of Maharashtra and ors. ... Respondents.

....

Mr Ganesh Gadhe, Advocate for the Petitioner.
Mr S.T. Tambe, A.G.P. for Respondent - State.

**AND
WRIT PETITION NO. 7176 OF 2020**

Hase Smita Subhash ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

**- AND -
WRIT PETITION NO.119 OF 2020**

Manohar Shalikrao Borse ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

**- AND -
WRIT PETITION NO. 2338 OF 2021**

Kamaji S/o Vitthalrao Jadhav ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

**- AND -
WRIT PETITION NO. 2373 OF 2021**

Dilip Tukaram Jadhav ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

**- AND -
WRIT PETITION NO. 2374 OF 2021**

Madhavai Ravindra Raghunath ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

**- AND -
WRIT PETITION NO. 2375 OF 2021**

Anilkumar S/o Shivajirao Patil ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr Gaesh Gadhe, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

**- AND -
WRIT PETITION NO. 2376 OF 2021**

Sudeshna Prabhakar Patil ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

- AND -

WRIT PETITION NO. 2377 OF 2021

Manisha D/o Ashok Patil ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

- AND -

WRIT PETITION NO. 2378 OF 2021

Panjabrao S/o Amulrao Pawar ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

- AND -

WRIT PETITION NO. 2379 OF 2021

Machindra S/o Sopan Wanve ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

- AND -

WRIT PETITION NO. 2380 OF 2021

Dipak S/o Prakash Wagh ... Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Mr R.I. Wakade, Advocate for petitioner
Mr S.K. Tambe, A.G.P. for respondent-State

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 04th February, 2021

PER COURT :

1. The petitioners are transferred from unaided to aided posts.
2. The learned Counsel for the petitioners has placed on record the chart showing the date of initial appointment on unaided posts, the date of approval to the appointment on unaided posts, the date of transfer to the aided posts and the approval granted to the transfer on the unaided posts.

The same is reproduced hereunder:

Sr. No.	WP No.	Name and qualification of employees	Date of Appointment on unaided basis	Date of approval	How many years worked on unaided basis	Transfer date from unaided to aided	Name of the authority granted Approval/order to transfer on 20% grant in aid instead of 100%
1	WP No.2778/21	Suvarnamala Prakash Dudhate	26.01.14 P.No.10	24.07.14 P.No.11	5 years, 10 months	29.11.19	21.12.2019 passed by Education Officer (Sec.) P.No.18
1A	WPST No.17227/20	Madhavi Ravindra Raghunath (M.Sc. B.Ed) (Biology)	17.07.09 P.No.22	31.10.15 P.No.23 & 24	08 years	16.06.17	13.04.2018 passed by Dy. Director of Education- P.No. 25 & 26
2	WPST No.17225/20	Hase Smita Subhash (M.Sc. B.Ed) (Chemistry)	15.06.09 P.No.22	31.10.15 P.No.23 & 24	10 years	01.04.19	20.11.2019 passed by Dy. Director of Education P.No. 25 & 26
3	WP NO.119/20	Manohar Shalikrao Borse (B.A.B.Ed & M.Ed.)	12.02.13	30.04.13 P.No.21 & 22	5 years & 07 months	22.10.18 P.No.23	17.09.19 passed by Education Officer P.No. 29 & 30

4	WPST NO.3878/ 21	Panjabrao Amulrao Pawar (M.Com. B.Ed.)	01.09.10 P.No.19	27.05.12 P.No. 20 & 21	05 years & 09 months	30.12.17 P.No.28	30.01.18 passed by Dy. Director of Education P.No.29 & 30
5	WPST No.3873/ 21	Machindra Sopan Wanve (B.A. B.Ed.)	01.07.08	28.12.12 P.No.19 & 20	08 years & 04 years	05.07.16 P.No.23	30.11.16 passed by Dy. Director of Education 16/18.02.19 passed by Dy. Director of Ed- ucation P.No.24 & 25
6	WPST No.17209 /20	Kamaji Vitthalrao Jadhav (M.Com. B.Ed.)	15.06.07 P.No.24	19.05.15 P.No.25 & 26	10 years & 06 months	01.01.18	19.01.19 passed by Dy. Director of Education P.No.27 & 28
7	WPST No.19504 /20	Dilip Tukaram Jadhav (B.A. B.Ed.)	25.06.09 P.No.25	09.06.14 P.No.26	08 years	03.04.17	02.03.19 passed by Education Officer P.No.33 & 34 27.06.19 passed y Dy. Director of Education P.No.35 & 36
8	WPST No.4088/ 21	Manisha Ashok Patil (B.A. B.Ed)	08.01.13 P.No.19	30.12.13 P.No.20	06 years, 06 months & 08 days	17.06.19 P.No.22	19.09.19 passed by Education Officer P. No.23 & 24
9	WPST No.4091/ 21	Sudeshna Prabhakar Patil (B.Sc. B.Ed.)	10.10.13	15.12.15 P.No.20	06 years	01.10.19 P.No.24	30.10.19 passed by Education Officer P.No.23 & 24
10	WPST No.4125/ 21	Dipak Prakash Wagh (M.A. B.Ed)	26.04.13	30.04.13 P.No.19	05 years, 05 months & 04 days	01.10.18	13.05.19 passed by Education Officer P.No.24
11	WPST No.22195 /20	Anilkumar Shivajirao Patil (B.A.B.Ed.)	25.06.08 P.No.10	18.01.11 P.No.12	12 years & 07 months	25.12.18 P.No.20 & 21	29.08.19 passed by Dy. Director of Education

3. It is submitted that in all these matters, the petitioners have worked on unaided posts for four years and more.

4. 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.

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-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 disposed of. No costs

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

S.P. Rane