

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

51 WRIT PETITION NO.8565 OF 2021

SHARDA TRYAMBAK UMBARKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Ramesh I. Wakade
AGP for Respondents-State : Mr. S. B. Pulkundwar

...

AND

68 WRIT PETITION NO.8582 OF 2021

REKHA RAJESH MAHALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL SECRETARY AND
OTHERS

...

Advocate for Petitioners : Mr. Ramesh I. Wakade
AGP for Respondents-State : Mr. S. K. Tambe

...

AND

91 WRIT PETITION NO.8605 OF 2021

GAJANAN RAMESH KANKHARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Ramesh I. Wakade
AGP for Respondents-State : Mr. S. B. Pulkundwar

...

AND

114 WRIT PETITION NO.8628 OF 2021

TUSHAR CHHABU PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Ramesh I. Wakade
AGP for Respondents-State : Mr. S. B. Pulkundwar

...

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

DATE : 09th AUGUST, 2021

PER COURT :-

1. The transfers of the petitioners from unaided posts to aided posts have been approved by the Deputy Director of Education / Education Officer (Secondary), but the same have been approved as Shikshan Sevaks from the date of transfers on aided posts.

2. The grievance of Mr. Wakade, the learned counsel for petitioners is that, the services rendered on unaided posts are required to be considered by the Deputy Director of Education / Education Officer (Secondary). The chart giving the details in respect of name of petitioners, date of appointment, approval as Assistant Teachers on unaided post, transfer from unaided to aided post and approval as “Shikshan Sevak” on aided basis, etc., is as under -

Nos.	Name and Qualification of Petitioners/Employees	Date of Appointment and Approval of “Assistant Teachers” on unaided basis w.e.f.	How many years worked on unaided basis	Transfer date w.e.f. unaided to aided	Approval as “Shiksan Sevak” on aided basis w.e.f.
1	Sharda Tryambak Umbarkar (MA, B.Ed.)	01-07-2014 Vide approval order dated 27-08-2014	4 Years 10 Month	01-05-2019	01-05-2019 vide approval dated 24-05-2019 Page No.20
2	Gajanan Ramesh Kankhare (BA, B.Ed.)	06-08-2014 Vide approval order dated 27-08-2014	2 Years 7 Month 26 days	01-04-2019	01-04-2019 vide approval dated 9/10-04-2019 Page No.20

3	Tushar s/o. Chhabu Patil (MA, B.Ed.)	01-01-2010 Vide approval order dated 14-05-2012 (Part-Time) Page No.15 16-06-2014 Vide approval order dated 3-12-2017 (Full-time) Page No.24	4 Years 5 Months and 15 Days (Part-Time) 3 Years 6 months and 14 days	01-01-2018	01-01-2018 vide approval dated 18-01- 2019 Page No.27
4	Smt. Rekha Rajesh Mahale (HSC, D.Ed.)	15-06-2013 (5200-20200) Vide approval order dated 27-08-2014	4 Years 9 Month 15 days	01-04-2018 Vide order dated 27-10-2018	01-04-2018 vide approval dated 26-11-2018 Page No. 22
	Smt. Punam Suresh Shirode (HSC, D.Ed.)	15-06-2013 (5200-20200) Vide approval order dated 27-08-2014	4 Years 9 Month 15 days	01-04-2018 Vide order dated 27-10-2018	01-04-2018 vide approval dated 26-11-2018 Page No. 22
	Shri. Girish Ashok Wagh (HSC, D.Ed.)	15-06-2013 (5200-20200) Vide approval order dated 27-08-2014	4 Years 9 Month 15 days	01-04-2018 Vide order dated 27-10-2018	01-04-2018 vide approval dated 26-11-2018 Page No. 22

3. The learned Additional Government Pleader for respondents-State relies on the circular dated 28-06-2016 to contend that, approvals can only be granted as Shikshan Sevaks from the date of transfers on aided posts.

4. Said issue is no longer *res-integra* in view of the Judgment of this Court, in Writ Petition No. 1493 of 2018 with other connected writ petitions decided under order dated 04th July, 2019. It has been considered by us that the services rendered on unaided posts will have to be considered while granting approval. If the petitioners have rendered services on unaided posts before their transfers on aided post,

then the approvals have to be granted considering the services rendered on unaided posts.

5. In the present cases, the petitioners are transferred on rendering service on unaided posts for 2½ years to 4 years.

6. In the result, the impugned orders granting approvals to the petitioners as Shikshan Sevaks from the date of transfers to the aided posts are quashed and set aside to that extent only. The Deputy Director of Education / Education Officer (Secondary) while granting the approvals to the petitioners as Shikshan Sevaks on the aided posts, shall consider the services rendered by the petitioners on unaided posts. To illustrate, if, the petitioners have rendered services on unaided post for two years and are transferred to aided posts, their services will be approved as Shikshan Sevak for one year from the date of transfers and thereafter as a Assistant Teacher. The Deputy Director of Education / Education Officer (Secondary) shall consider all these proposals and give approvals as directed above.

7. In view of the above, the writ petitions are partly allowed in above terms and disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S.V. GANGAPURWALA)
JUDGE