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

940 WRIT PETITION NO.9134 OF 2021

RIYAZKHAN SARWARKHAN PATHAN

.. Petitioner

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER .. Respondents

...

Mr Vijay A. Dhakne, Advocate for the Petitioner
Mr P.K. Lakhotiya, AGP for Respondent Nos.1 & 2

...

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

DATE : 21-08-2021

PER COURT : -

1. The proposal seeking approval to the transfer of the petitioner from unaided to aided post is allowed, but in phase-wise manner. The said order is challenged to the extent of granting approval in phase-wise manner.

2. The petitioner contends that he was appointed in the year 2011. The appointment on the unaided post was approved. The petitioner was transferred to the aided post on or about 01-02-2017 i.e. after working for more than 5 years on the unaided post.

3. We have heard the learned AGP for respondent nos.1 and 2.

4. The approval has been granted to the transfer of the petitioner

from unaided to aided post meaning thereby that the Education Officer is convinced with the seniority, roster and qualification of the petitioner. The approval is granted in phase-wise manner. The petitioner has already served for more than 5 years on the unaided post prior to the transfer to the aided post. In light of that the approval ought to have been granted on 100% grant-in-aid, if the post on which the petitioner is transferred is 100% grant-in-aid.

5. Reference can be had to the Judgment of the Division Bench of this Court in Writ Petition No.1493 of 2019 dated 04-07-2019.

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

7. The Education Officer shall satisfy himself that the transfer of the petitioner on aided post is on 100% grant-in-aid and if he is satisfied that the transfer of the petitioner is on 100% grant-in-aid, then the approval shall be granted on 100% grant-in-aid. The same shall be done preferably within four months.

8. Writ Petition is accordingly disposed of. No costs.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE