

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

WRIT PETITION NO. 9227 OF 2021

Manisha Bhagwan Payghan .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Ramesh I. Wakade, Advocate for the Petitioner.

Shri P. K. Lakhotiya, A.G.P. for Respondent Nos. 1 to 3.

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

DATE : 23RD AUGUST, 2021.

FINAL ORDER :

. 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 petitioner that, the petitioner has worked on unaided post for more than five years before transfer to the aided post. The aided post to which the petitioner is transferred is on 100% grant-in-aid for which the approval has to be on 100% grant-in-aid post.

3. The Assistant Government Pleader waives service for respondent Nos. 1 to 3.

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

Sr. No.	Name of Employee	Appointment and Approval of Assistant Teacher on unaided basis w.e.f	How many years worked on unaided basis	Transfer date w.e.f. unaided to aided	Approval as "Assistant Teacher" on 20% grant-in-aid basis instead of 100% w.e.f.
01.	Smt. Manisha Bhagwan Payghan	27.01.2015 Vide approval order dt. 27.07.2018	05 Years 10 months and 06 days	02.12.2020	02.12.2020 vide approval dt. 22.12.2020

5. It is submitted that, the petitioner has worked on unaided post for five years and more.

6. We have in our judgment dated 04.07.2019 in Writ Petition No. 1493 of 2018 with other 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 petitioner as an assistant Teacher from the date of transfer to the aided post had granted approval on grant-in-aid in phase-wise manner to the effect that after five years, the petitioner 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 petitioner is transferred on 100% grant-in-aid post since the date of completion of three years, she shall be considered on 100% grant-in-aid post. In case the petitioner is transferred on grant-in-aid post, for example on 60%, then from the date of transfer, she would be on 60% grant-in-aid posts, but if the petitioner, after having completed three years on unaided post and is transferred on 100% grant-in-post, her services will have to be considered on 100% grant-in-post. This aspect has been ignored by 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 Education Officer is satisfied about approval to the transfer of the petitioner on aided post and if the petitioner has completed three years and more on unaided post before she is transferred to aided post on 100% grant-in-aid, then respondent/Education Officer shall consider grant of approval to the transfer of the petitioner on 100% grant-in-aid post within a period of six months from today.

10. The writ petition accordingly is disposed of. No costs.

[R. N. LADDHA, J.]
bsb/Aug.21

[S. V. GANGAPURWALA, J.]