

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
921 WRIT PETITION NO.9610 OF 2021**

SHILA BHASKAR NARKHEDE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

..RESPONDENTS

...

Mr. Jitendra V. Patil, Advocate for the Petitioner.

Mr. P. K. Lakhotiya, AGP for Respondents-State.

Mr. N. E. Deshmukh, Advocate for Respondent No.3.

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

DATED : 31st AUGUST, 2021.

PER COURT:-

1. The petitioner is transferred from unaided to aided post.

2. The learned Counsel for the petitioner has placed on record the chart showing the date of initial appointment on unaided post, the date of approval to the appointment on unaided post, the date of transfer to the aided post and the approval granted to the transfer on the unaided post. The same is reproduced hereunder:

Sr. No.	Writ Petition No.	Name of the Petitioner/ Employee	Date of Appointment on Un-Aided Basis	Date of Approval on unaided post	How Many Years Worked on Un-Aided Basis	Transfer Date from Un-Aided to Aided	Name of the authority granted Approval/ order to transfer on 20% grant in aid instead of 100%
1.	WP/ 9610/2021	Shila Bhaskar Narkhede	20/06/2011 (Page No.15)	09/03/2015 (Page No.17)	9 years 5 months	01/12/2020 (Page No.19)	Order passed by education Officer Secondary

							dated 20/05/2021 (Page No.18) as well as order passed by Dy. Director of Education dated 14/06/2021 (page no.22 & 23)
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3. It is submitted that in this matter, the petitioner has worked on unaided post 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 petitioner 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 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.

5. In case the petitioner is transferred on 100% grant-in-aid post since the date of completion of three years, the petitioner shall be considered on 100% grant-in-aid posts. In case the petitioner

is transferred on grant-in-aid posts, 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 are transferred on 100% grant-in-aid posts, her service will have to be considered on 100% grant-in-post. 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 petitioner on aided post and if the petitioner has completed three years and more on unaided post before she is transferred to aided posts on 100% grant-in-aid post, then respondents - Director of Education / Dy. Director of Education / Education Officer shall consider grant of approval to the transfer of the petitioner on 100% grant-in-aid posts within a period of six months.

8. Writ Petition is disposed of. No costs

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/August-2021