

.. 1 ..

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

79 WRIT PETITION NO.10318 OF 2021

SOMANATH MUKESH MAHAJAN

.. Petitioner

VERSUS

THE STATE OF MAHARASHTRA

THROUGH ITS PRINCIPAL SECRETARY

AND OTHERS

.. Respondents

...

Mr Ramesh I. Wakade, Advocate for the Petitioner

Mr S.P. Tiwari, AGP for Respondent Nos.1 to 3

...

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

DATE : 20-09-2021

PER COURT : -

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

3. The AGP accepts notice for respondent Nos. 1 to 3.

Gajanan

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 and the date of transfer to the aided post. The same is reproduced as below :

SERVICE DETAILS OF PETITIONER

Sr No	On Today's Board at Sr. No.	Name of Employee	Appointment & 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.
1.	79 (W.P. No. 10318/2021)	Shri Somanath S/o Mukesh Mahajan	1.09.2014 Vide approval order dtd. 09.02.2015 Page No.20	06 years, 02 months & 29 days	1.12.2020	01.12.2020 vide approval dtd. 21.01.2021 Page No.24

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

6. 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.

7. In case the petitioner is transferred on 100% grant-in-aid post since the date of completion of three years, he 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, he would be on 60% grant-in-aid post, but if the petitioner, after having completed three years on unaided post and is transferred on 100% grant-in-aid post, his services 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.

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 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 he is transferred to aided post on 100% grant-in-aid post, then respondents – Director of Education

.. 4 ..

/ Dy. Director of Education / 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.

10. Writ Petition is disposed of. No costs.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

...