

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

1038 WRIT PETITION NO.10621 OF 2021

CHANDRASHEKHAR VASANTRAO NIKAM

VERSUS

THE STATE OF MAHARASHTRA & OTHERS

...

Advocate for Petitioners : Mr. Wakade Ramesh I. & Mr. Sable A. K.

AGP for Respondents/State: Ms. V. N. Patil-Jadhav

...

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

DATE : 24th September, 2021

P.C. :

. The transfer of the Petitioner from unaided post to aided post has been approved by the Deputy Director of Education/Education Officer (Secondary), but the same has been approved as Shikshan Sevak from the date of transfer on aided post.

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

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 "Shikshan Sevak" on aided basis w.e.f.
1.	1038 (W.P. No. 10621/2021)	Shri. Chandrashekhar Vasantryao Nikam	15.12.2014 Vide approval order dtd. 30.12.2014 Page No. 16	02 years, 05 months & 16 days	01.06.2017	01.06.2017 vide approval dtd. 31.10.2018 Given by Education Officer (Secondary), Zilla Parishad, Jalgaon. Page No. 21

3. The learned Additional Government Pleader for Respondents-State relies on the circular dated 28-06-2016 to contend that, approval can only be granted as Shikshan Sevak from the date of transfer on aided post.

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 04th July, 2019. It has been considered by us that the service rendered on unaided posts will have been to be considered while granting approval. If the Petitioner has rendered service on unaided post before his transfer on aided post, then the approval has to be granted considering the service rendered on unaided post.

5. In the present case, the Petitioner is transferred on rendering service on unaided post for 2½ years.

6. In the result, the impugned order granting approval to the Petitioner as Shikshan Sevak from the date of transfer to the aided post is quashed and set aside to that extent only. The Deputy Director of Education/Education Officer (Secondary) while granting the approval to the Petitioner as Shikshan Sevak on the aided post, shall consider the service rendered by the Petitioner on unaided post. To illustrate, if, the Petitioner has rendered service on unaided post for two years and is transferred to aided post, his service will be approved as Shikshan Sevak for one year from the date of transfer and thereafter as a Assistant Teacher. The Deputy Director of Education/Education Officer (Secondary) shall consider this approval and give approval as directed above.

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

(R. N. LADDHA, J.)

(S. V. GANGAPURWALA, J.)