

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

42 WRIT PETITION NO.11045 OF 2021

SMT. DESHMUKH SUPRIYA APPASAHEB
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Shivaji T. Shelke.

AGP for Respondent/State: Mr. S. B. Pulkundwar.

Advocate for Respondent Nos.3 & 4 : Mr. S. S. Wagh.

...

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

DATE : 04th October, 2021.

P.C.:

. 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:

Dt. of appointment on unaided post	Dt. of approval on unaided post	Worked on unaided post	Dt. of transfer on aided post	Dt. of approval on aided post
12.6.2010	29.10.2015	7 years	15.06.2017	27.06.2017

3. It is submitted that in the present matter, the petitioner has worked on unaided post for seven years.

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 petitioners 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 petitioners 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 petitioners are transferred on 100% grant-in-aid posts since the date of completion of three years, they shall be considered on 100% grant-in-aid posts. In case the petitioners are transferred on grant-in-aid posts, for example on 60%, then from the date of transfer, they would be on 60% grant-in-aid posts, but if the petitioners, after having completed three years on unaided posts and are transferred on 100% grant-in-aid posts, their services will have to be considered on 100% grant-in-posts. 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 post 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 post within a period of six months.

8. Writ Petition disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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