

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

WRIT PETITION NO. 12080 OF 2021

Kurban Bhikari Tadavi

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

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

Mr. P. K. Lakhotiya, AGP for Respondent Nos. 1 to 3.

AND

WRIT PETITION NO. 12106 OF 2021

Charulata Ashok Ingale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

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

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

AND

WRIT PETITION NO. 12165 OF 2021

Ajay Sudhakar Chaudhari

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

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

Mr. K. N. Lokhande, AGP for Respondent Nos. 1 to 3.

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

DATED : 28th October, 2021.

PER COURT:-

. The authority has granted approval to the transfers of the petitioners from unaided to aided posts, however, in a phase-wise grant in aid manner.

2. According to the learned counsel for the petitioners, the services rendered by the petitioners on unaided posts are not considered.

3. The learned A.G.P appears for respondent Nos. 1 to 3 and supports the order passed by the authority.

4. The details of the date of appointment of the petitioners on unaided posts, date of approval on unaided posts and the date of approval to the aided posts are detailed as under :

Sr. No.	Writ Petition No.	Name of the Petitioner/ Employee	Date of Appointment on Unaided basis	Date of Approval (Unaided)	Transfer Date from Unaided to Aided	Date of Approval (Aided)	How many years worked on Unaided basis
1	WP/12080/2021	Kurban Bhikari Tadavi	07/02/2012 (Page No. 15)	25/04/2013 (Page No. 16)	01/02/2021 (Page No. 18)	04/03/2021 (Page No. 19)	8 years 11 months
2	WP/12106/2021	Charulata Ashok Ingale	07/02/2012 (Page No. 15)	25/04/2013 (Page No. 16)	01/02/2021 (Page No. 18)	04/03/2021 (Page No. 19)	8 years 11 months
3	WP/12165/2021	Ajay Sudhakar Chaudhari	07/02/2013 (Page No. 15)	25/04/2013 (Page No. 16)	01/02/2021 (Page No. 18)	04/03/2021 (Page No. 19)	7 years 11 months

5. It would appear that all these petitioners have rendered services of more than five years on unaided posts prior to the transfers to the

aided posts. The transfers of the petitioners to the aided posts are prior to the amendment to rule 41-A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. Rule 41-A has been amended on 08.06.2021.

6. We had in our judgment and order dated 14.07.2019 in Writ Petition No. 1493 of 2018 with other connected writ petitions observed that some of the clauses of the circular dated 28.06.2016 are erroneous. The services of the petitioners rendered on unaided posts are required to be considered. As all these petitioners have rendered services for more than five years on unaided posts and if they are transferred on 100% grant in posts, then their approval ought to have been granted on 100% grant in aid posts.

7. In the light of the above, the impugned order to the extent of granting approval in a phase-wise manner is set aside. The authority shall verify the transfers of the petitioners on 100% grant in aid posts and if the authority is satisfied that, the petitioners have been transferred on 100% grant in aid posts after rendering services for more than five years on unaided posts, then the authority shall grant approval on 100% grant in aid posts from the date of transfers to the aided posts.

8. We have passed this order as the authority has approved the transfers of the petitioners on aided posts thereby confirming that the seniority, roster has been followed and the petitioners possess the necessary qualification.

9. The aforesaid exercise shall be done preferably within a period of four (04) months from today.

10. Writ petitions are disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.