

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

WRIT PETITION NO. 13774 OF 2021

Tukaram Manikrao Pawar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Mr. Ramesh I. Wakade, Advocate for the Petitioner.
Mr. S. K. Tambe, AGP for Respondent Nos. 1 to 4.

AND

WRIT PETITION NO. 13777 OF 2021

Balwant Pandurang Kaunsalye .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Mr. Ramesh I. Wakade, Advocate for the Petitioner.
Mr. S. P. Tiwari, AGP for Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATED : 09th DECEMBER, 2021.

PER COURT:-

. The petitioners are transferred from unaided to aided posts.

2. The learned Counsel for the petitioners has placed on record the chart showing the date of initial appointment on unaided posts, the date of approval to the appointment on unaided posts, the date of

transfer to the aided posts and the approval granted to the transfer on the unaided posts. The same is reproduced hereunder :

Sr. No.	Writ Petition No.	Name of Employee	Appointment & Approval on unaided basis w.e.f.	Haw many years worked on unaided basis.	Transfer date w.e.f. unaided to aided	Approval as on 20% grant-in-aid basis instead of 100% w.e.f.
1.	W. P. No. 13774/2021	Tukaram S/o Manikrao Pawar	17.06.2011 Vide approval order dtd. 09.06.2014 Page No. 23.	08 years, 02 months & 18 days	05.09.2019	05.09.2019 vide approval dtd. 2012.2019 & order dtd. 21.01.2020 Page Nos. 26 & 28
2.	W. P. No. 13777/2021	Balwant Pandurang Kaunsalye	10.07.2009 Vide approval order dtd. 26.12.2013 Page No. 20.	More than 05 years	01.01.2018 Page No.22	01.01.2018 vide approval dtd. 08.03.2019 Page No. 23

3. It is submitted that in all these matters, the petitioners have worked on unaided posts 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 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-aid 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 petitioners on aided posts and if the petitioners have completed three years and more on unaided posts before they are transferred to aided posts on 100% grant-in-aid posts, then respondents - Director of Education / Dy. Director of Education / Education Officer shall consider grant of approval to the transfer of the petitioners on 100% grant-in-aid

posts within a period of six months.

8. Writ Petitions are disposed of. No costs

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.