

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 WRIT PETITION NO.13929 OF 2021

RAHUL SUKADEO KEDAR

.. Petitioner

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

.. Respondents

...

Advocate for Petitioner : Mr. Ramesh L. Wakade

AGP for Respondents / State : Mr. P.K. Lakhotiya

...

CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.

DATE : 14-12-2021

PER COURT :

1. 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 :

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.	934 (W.P. No. 13929/2021)	Rahul S/o. Sukadeo Kedar	15.06.2012 Vide approval order dtd.30.10.2013 Page No.19	05 years	15.06.2017 Page No.25	15.06.2017 vide approval dtd.31.12.2019 given by Dy. Director of Education

			Approval as confirmation employee Vide approval dtd.29.12.2017 Page No.23			Page No.26
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3. It is submitted that the petitioner has worked on unaided post for more than four years.

4. We have in our judgment dated 04-07-2019 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 post 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.

5. 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.

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 he is transferred to aided post on 100% grant-in-aid post, then respondent - 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 is disposed of. No costs

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE