

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

WRIT PETITION NO. 13659 OF 2017

Abasaheb Eknath Solanke

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Swapnil D. Tawshikar, Advocate for the Petitioner.

Mr. S. G. Karlekar, AGP for Respondent Nos. 1 and 2.

Mr. V. S. Kadam, Advocate for Respondent No. 3.

Mr. V. A. Bagdiya, Advocate for Respondent No. 4.

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

DATED : 08th September, 2021.

PER COURT:-

. The proposal seeking approval to the transfer of the petitioner as a Peon from unaided to aided post is rejected. The order is basically passed on the premise that no procedure is followed at the time of appointment of the petitioner on unaided post. The procedure is also not followed while transferring the petitioner to aided post. An application is given by the widow of the deceased employee Mr. Khandare to accommodate her on compassionate ground.

2. Mr. Tawshikar, learned counsel for the petitioner submits that appointment orders are placed on record. The petitioner was initially

appointed in the year 1998 on unaided post. For one and half year on medical premise he could not attend the college. Thereafter, again he was allowed to resume the duties in the year 2001, but on unaided post. In the year 2015, the petitioner is transferred to the aided post upon death of one Mr. Khandare. The post is available.

3. Mr. Bagdiya, learned counsel for the management submits that one post of Peon is available with the respondent-College on aided basis.

4. Mr. Karlekar, learned A.G.P. submits that the procedure has been violated. The petitioner claims to be working on unaided post. His appointment is not approved on unaided post, nor the procedure is followed while appointing him on unaided post. The post is not available with the College for Peon on aided basis. All these aspects have been rightly considered.

5. It appears that, the petitioner is working with the respondent institution on unaided basis since long time. The Institution has made payment to the petitioner from time to time. This court had also directed the institution to make payment to the petitioner and the institution has made payment of Rs. 10,00,000/- (Rupees Ten Lakh only) to the petitioner. The said order was passed in Writ Petition No. 1848 of 2017.

6. It appears that, the petitioner has been working for almost 20 years. Now, the management also accepts that the petitioner is working on unaided post. The petitioner is transferred to the aided post upon death of one Mr. Khandare.

7. It is submitted by Mr. Bagdiya, learned counsel for the management that the application filed by the widow of the deceased Mr. Khandare is rejected by the management and the said order is confirmed by the High Court in the writ petition filed by widow of deceased Mr. Khandare.

8. In the light of that, the said ground for rejection of application for approval does not survive.

9. Considering the fact that, the petitioner is working since 20 years and same is also evidenced by various orders passed, the Joint Director of Education may consider the claim of the petitioner for transfer to the aided post. Of course, the same would be subject to the qualification, seniority and roster.

10. The impugned order is quashed and set aside. The authority shall reconsider the proposal seeking approval to the transfer of the petitioner to the aided post on its own merits, upon considering the seniority, qualification and roster. It may not reject the proposal

on the ground on which the impugned order is passed. The same be considered expeditiously and preferably within a period of four (04) months from today.

11. Writ petition accordingly is disposed of. No cost.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.