

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

96 WRIT PETITION NO. 410 OF 2022

MUKAND BHASKARRAO SUNDAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Bhausahab B. Bhise
Addl. GP for Respondent Nos 1 to 4 : Mr. S. B. Yawalkar
Advocate for Respondent No. 5 : Mr. Abhijeet Choudhari

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

DATE : 24th JANUARY, 2022

PER COURT :-

1. The proposal seeking approval to the transfer of the petitioner from unaided post to aided post is granted but in phase wise grant-in-aid manner.
2. The learned counsel for the petitioner submits that petitioner was appointed on unaided post on 09-07-2008. He was transferred to the aided post in the year 2014. The approval has been granted to the petitioner in phase wise grant-in-aid manner.
3. The petitioner relies on the Judgment dated 4th July, 2019 of the Division Bench in Writ Petition No. 1493 of 2018 along with connected writ petitions and contends that service rendered on unaided post is required to be considered.
4. We have also heard the learned Additional Government Pleader.
5. It appears that the petitioner was appointed on unaided post on 09-07-2008 and his appointment on unaided post is approved. He was transferred to the aided post w.e.f. 01-11-2014. Approval has been

granted to the said transfer on aided post, but in phase wise grant-in-aid manner. The approval has been granted in phase wise grant-in-aid manner on the basis of circular dated 28-06-2016.

6. This Court under Judgment and order dated 4th July, 2019 in writ petition No. 1493 of 2018 and connected matters observed that sub-clauses (1) and (2) of clause 3 of circular dated 28-06-2016 are erroneous. The services of the petitioner on unaided post is required to be considered. If the petitioner is transferred to aided post after rendering three years service or more on unaided post and transferred on 100% grant in aid post, the approval has to be granted on 100% grant in aid.

7. In view of the above, the impugned order to the extent of granting approval in phase wise manner is set aside. Deputy Director of Education shall verify whether transfer of petitioner is on 100% grant in aid and if it is satisfied that transfer of the petitioner is on 100% grant in aid post then approval shall be granted to the petitioner on 100% grant in aid from the date of transfer. This exercise shall be done within a period of four months.

8. Writ petition is disposed of. No costs.

(S.G. DIGE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE