

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5460 OF 2022

ARCHANA DHANRAJ KHANDEKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Shri Wakade Ramesh I.
AGP for Respondents 1 and 2/ State : Shri S.G. Sangle
Advocate for Respondent 3 : Shri Sonawane Maheshkumar S.

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CORAM : RAVINDRA V. GHUGE
&
ANIL L. PANSARE, JJ.

DATE :- 22nd June, 2022

Per Court :-

1. The petitioner has put forth prayer clause B as under

:-

“B) *By issuing writ of mandamus or any appropriate writ, order or direction in the like nature, this Hon’ble Court may kindly be directed Respondent No.3- Education Officer (Primary), Zilla Parishad, Jalgaon to grant an approval to the transfer of petitioner as “Assistant Teacher” instead of “Shikshan Sevak” on 100% grant-in-aid basis on regular pay-scales with effect from the date of transfer from unaided to aided post by modifying an approval order dated 23.06.2017 and release the arrears of salary to petitioner within stipulated period.”*

2. Reliance is placed upon the order delivered by us on 14.06.2022 in Writ Petition No.5434/2022 filed by ***Rupali Nandkumar Rasane vs. The State of Maharashtra and others***. We had relied upon the view taken by the learned Division Bench headed by The Honourable The Chief Justice of the Bombay High Court. For the sake of clarity, we are reproducing paragraphs 2 to 6 of the order dated 14.06.2022 hereunder :-

“2. A very short crisp issue is raised before this Court in this petition. The petitioner had completed three years as a ‘Shikshan Sevak’ after she was appointed on 16/06/2014. She was on unaided basis from 16/06/2014 till 14/02/2017, which is a period of 2 years 7 months and 29 days. On 15/02/2017, she was transferred to the aided category. With the addition of 4 months and 1 day on the aided basis, she completed 3 years as a ‘Shikshan Sevak’ on 15/06/2017. An approval to her service as an ‘Assistant Teacher’ is granted on 14/02/2020, concluding that the earlier period of service of unaided basis for 2 years 7 months and 29 days cannot be reckoned with.

3. This issue has been specifically answered by the Division Bench headed by the Hon’ble The Chief Justice of the Bombay High Court, vide order dated 18/09/2020, delivered in Writ Petition No.6363/2020, filed by Bhushan Sukdeo Patil Vs. the State of Maharashtra and others. We deem it apposite to reproduce paragraph Nos.4, 5 and 6 of the said order, as under :-

“4. Said issue is no longer res integra in view of the judgment of this Court Writ Petition No.1493 of 2018 with other connected

writ petitions decided under order dated 4th July 2019. It has been considered by us that the services rendered on unaided posts will have to be considered while granting approval. If the petitioner has rendered services on unaided post before his transfer on aided post, then the approval has to be granted considering the services rendered on unaided post.

5. *In the present case, the petitioner is transferred on rendering almost one year service on unaided post. Naturally, he will have to complete three years and while computing the three years as Shikshan Sevak, service rendered on unaided post will have to be computed.*

6. *In the result, the impugned order granting approval to the petitioner as Shikshan Sevak from the date of transfer to the aided is quashed and set aside to that extent only. The Education Officer while granting the approval to the petitioner as Shikshan Sevak on the aided post, shall consider the services rendered by the petitioner on unaided post. To illustrate, if the petitioner has rendered services on unaided post for two years and is transferred to aided post, his services will be approved as Shikshan Sevak for one year from the date of transfer and thereafter as an Assistant Teacher. The Education Officer shall consider this proposal and give approval as directed above.”*

4. *The illustration set out in paragraph No.6 sheds sufficient light on the issue before us. Since the petitioner completed 2 years 7 months and 29 days as a ‘Shikshan Sevak’, further period of 4 months and 1 day is necessary to complete the period of 3 years as a ‘Shikshan Sevak’, which is on 15/06/2017. She, therefore, stands approved as an ‘Assistant Teacher’ w.e.f. 16/06/2017.*
5. *In view of the above, this petition is allowed.*

6. *The impugned order dated 12/04/2018 is quashed and set aside. We direct respondent No.3, to issue a fresh order of approval, recognizing the services of the petitioner as an approved 'Assistant Teacher' w.e.f. 16/06/2017, on or before 30/06/2022. All monetary benefits, to which the petitioner would be entitled to, as a consequences of this order, shall be calculated by the College and the salary bills shall be tendered by following the due procedure, on or before 30/07/2022. Needless to state, the payment of the arrears shall be released within 30 days, thereafter."*
3. It is not disputed that the petitioner has been granted approval and is already transferred from the unaided category to the aided category. She has put in 03 years as Shikshan Sevak and as such, the approval for her service as an Assistant Teacher is necessary after completion of three years. She is squarely covered by the view taken by this Court in ***Bhushan Sukdeo Patil (supra)*** and ***Rupali Nandkumar Rasane (supra)***.
4. Considering the above and the submissions of the learned counsel for the respective sides, this Writ Petition is allowed.
5. Respondent No.3 is directed to modify the approval order dated 23.06.2017 by granting approval to the petitioner as an Assistant Teacher after completion of three years as a

Shikshan Sevak. Such modification order shall be passed on or before 15.07.2022.

6. All monetary benefits shall be calculated by the School Management by tendering the revised salary bills, on or before 25.08.2022. Needless to state, monetary benefits shall be calculated from the date on which the petitioner was transferred from the unaided to the aided category.

7. The petitioner shall serve a copy of this order on the School Management.

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(ANIL L. PANSARE, J.)

(RAVINDRA V. GHUGE, J.)