

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7714 OF 2022

YOGESH SHIVAJI KHULE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS

Mr.S.S.Dixit, Advocate for the petitioner.
Mr.S.G.Karlekar, AGP for respondent Nos. 1 to 3.
Mr.P.P.Kothari, Advocate for respondent Nos. 4 to 6.

(CORAM : RAVINDRA V. GHUGE AND
ARUN R. PEDNEKER, JJ.)

DATE : OCTOBER 06, 2022

PER COURT :

1. On 29.07.2022, we had passed the following order :-

"1. On 25/07/2022, we had passed the following order :-

"1. Issue is as regards transfer from the unaided post to the 100% aided post and payment of scale which is available after completion of three years on an unaided post.

2. Since this issue is no longer res-integra, the learned AGP representing respondent Nos.1, 2 and 3 would take instructions.

3. Stand over to 29-07-2022 in the passing orders category."

2. *It is revealed from the record that the petitioner joined as an 'Assistant Teacher' in an unaided division on 16/06/2014. On 16/06/2017, he would be eligible to be transferred to the aided division and for the pay scale applicable. Since the management forwarded his proposal for the post of 'Shikshan Sevak', that the Education Department granted approval accordingly. The management needs to alter it's proposal so as to be in tune with the law.*

3. *Issue notice to the respondents, returnable on 06/09/2022. The learned AGP waives service of notice on behalf of respondent Nos.1, 2 and 3."*

2. The learned Advocate representing the Management concedes that the proposal mentioned a wrong date of joining of the petitioner on the unaided division as an "Assistant Teacher", which is actually 16.06.2014. The proposal sent by the Management, therefore, needs to be corrected.

3. The learned AGP submits that the moment the corrected proposal is received by the Authority/respondent No.3, the record would be verified and thereafter an appropriate order would be passed. Needless to state, if there is any change, the impugned order dated 25.03.2021 would no longer survive and the fresh order passed would apply to the petitioner.

4. In view of the above, this petition is disposed off with the following directions :-

[a] Respondent Nos.4 to 6, Management, would forward the corrected proposal of the petitioner to respondent No.3, on or before 21.10.2022.

[b] Respondent No.3 would assess the said proposal by verifying the record available and after confirming that the petitioner has joined service on 14.06.2014, a fresh order would be passed.

[c] Pursuant to the above order, the order dated 25.03.2021 would lose its efficacy.

[d] In the event, respondent No.3 has a different view on the basis of the record, he would pass a reasoned order and a copy of the same would be served upon the petitioner, expeditiously.

[e] Let this exercise, after receiving the corrected proposal on or before 21.10.2022, be completed by 30.11.2022.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)