

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

23 WRIT PETITION NO.8342 OF 2022

**RUPALI NANDU SHEVRE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTEHRS**

...

Advocate for Petitioners : Mr. R.I. Wakade
AGP for Respondent Nos. 1 to 3 : Mr. P.K. Lakhotiya
Advocate for Respondent No. 4 : Mr. A.K. Sable

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**CORAM : RAVINDRA V. GHUGE &
ARUN R. PEDNEKER, JJ.**

DATED : SEPTEMBER 19th, 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 the Respondent No. 3- Education Officer (Secondary), 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 after considering the services rendered on unaided posts (i.e. prior to transfer from unaided to aided post) by modifying an approval order dtd. 01.10.2018 and release all monetary benefits, to which the petitioner is entitled as per law within stipulated period.

2. It is undisputed that the petitioner was appointed on unaided post on 3.12.2015. She was transferred to the added post on 4.12.2017. Respondent No. 3 granted approval as 'Shikshan Sevak' with effect from 4.12.2017, for a period of three years without

considering her services rendered earlier on the unaided post since 3.12.2015.

3. We have considered the submissions of the learned counsel and the learned AGP on behalf of the respective sides. The issue raised is no longer *res-integra*. In Writ Petition No. 6363/2020 filed by Bhushan Sukdeo Patil Vs. The State of Maharashtra and others, decided on 18.09.2020, this Court, more specifically, held in paragraph Nos. 4, 5 and 6, which read as under :-

"4. Said issue is no longer *res integra* in view of the judgment of this Court in 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. In view of the above, the writ petition is partly allowed. The impugned order dated 1.10.2018 shall stand modified and the period of three years on unaided basis shall be calculated from 3.12.2015 till 2.12.2018. The Education Officer shall issue a modified order, as directed, within three weeks from today.

5. Needless to state, the Management shall calculate the unpaid salary bills, in the light of this order and shall forward the pay bills to the Education Officer, on or before 10th October, 2022. Thereafter, the Education Officer shall direct the release of arrears of the salary of the petitioner, on or before 15th November, 2022.

[ARUN R. PEDNEKER J.]

[RAVINDRA V. GHUGE, J.]

SSC/