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

**WRIT PETITION NO.14681 OF 2021**

Shilpa Arunrao Dahatonde,  
age : 41 years, occu. Service,  
R/o Ghodegaon, Tal. Newasa,  
District Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra,  
Through its Secretary,  
School Education Department,  
Mantralaya, Mumbai - 400032

2. The Education Officer (Secondary),  
Zilla Parishad, Ahmednagar

..RESPONDENTS

Mr. N.K. Chaudhari, Advocate for petitioner;  
Mr. S.G. Karlekar, A.G.P. for respondents

**CORAM : A.S. GADKARI  
AND  
S. G. MEHARE, JJ.**

**DATE : 3<sup>rd</sup> January, 2022**

**P.C.**

1. The order dated 06.11.2019, passed by respondent no.2, granting approval to the transfer of the petitioner from unaided post to the aided post in a phase-wise manner and the order dated 09.12.2021 granting approval to the appointment of petitioner from 01.04.2018, the date of

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transfer from unaided to aided post ignoring the period of service from 22.07.2013, passed by Respondent No. 2 is under challenge.

2. The impugned order is passed on the basis of a circular dated 28.06.2016 of the Department of Education and Sports, State of Maharashtra. The said circular has been declared erroneous to the extent of its few clauses by pronouncements of this court in various petitions. It clearly appears that, the Respondent No. 2 has not taken into consideration earlier judgements of the coordinate Bench of this Court passed in W.P. No.13289/2021 dated 2<sup>nd</sup> December 2021, 1493/2018 with other Petitions dated 04.07.2019, as regard to the issue of granting approval to the appointment of the teachers from the date of the services rendered by them. Time and again, the same issue is coming up before this Court and the petitioners are seeking relief based on the earlier pronouncements of this Court. Recently, the coordinate Bench of this Court in its judgement dated 21 December 2021 passed in Writ petition No. 14459 of 2021, has held that the services rendered on the unaided post are required to be considered. It has also been held that if the petitioner is transferred to the aided

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post after rendering 3 years of service on the unaided post and if the transfer is on 100% grant-in-aid post, then the approval ought to be on 100% grant in aid post.

3. Based on the previous pronouncements of this Court as mentioned above, on the issue involved before this Court, the petitioner is seeking the relief of transfer on 100% grant-in-aid post from 22.07.2013.

4. The learned AGP appearing for the Respondents has fairly conceded that the issue involved in this case is squarely covered by the earlier pronouncements in field.

5. Since the issue involved in this case has been answered by this Court by earlier pronouncements mentioned above and fairly conceded by the Respondents, the petitioner is entitled to the relief sought for. Hence, we pass the following order:-

### **ORDER**

- 1 The petition is allowed.
- 2 The impugned orders are quashed and set aside.
- 3 Respondent no. 2 is directed to grant approval to the transfer of the petitioner on 100% grant-in-post if he is posted on 100% grant-in-aid post from the date of his transfer on grant-in-aid post and consequently issue

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approval to his appointment from the date of his transfer to the grant-in-aid post.

- 4 For not considering clear pronouncements on the point of law earlier declared by this court and involved in present petition, the respondent no.2 is directed to pay cost of Rs.25,000/- from his own pocket to the Chief Minister's Relief Fund.

**(S. G. MEHARE, J.)**

**(A.S. GADKARI, J.)**

amj