

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7653 OF 2022

Parameshwar s/o. Kallappa

Birajdar & Ors. ... **Petitioners**

Versus

The State of Maharashtra & Ors. ... **Respondents**

WITH

WRIT PETITION NO. 7734 OF 2022

Rukmini Shantaram Karanjkar ... **Petitioner**

Versus

The State of Maharashtra & Ors. ... **Respondents**

Mr. Ramesh Wakade, Advocate for the Petitioners in WP/7653/2022.

Mr. Ramesh Wakade i/b. Mr. Paresh Borse, Advocate for the Petitioner in WP/7734/2022.

Mr. S. L. Babar, AGP for the Respondents/State in WP/7653/2022.

Mr. N. C. Walimbe, AGP for the Respondents/State in WP/7734/2022.

**CORAM: S.V. GANGAPURWALA &
S. M. MODAK, JJ.**

DATED : JULY 4, 2022

P.C.

1. The petitioners are transferred from unaided to aided posts.

2. The learned Counsel for the petitioners has placed on record the charts showing the date of initial appointments on unaided posts, the date of approval to the appointments on unaided posts, the date of transfer to the aided posts and the approval granted to the transfer on the unaided posts.

The same is reproduced hereunder :

Petitioners in Writ Petition No. 7653 of 2022

Sr. No	Name of Employees	Appointment & Approval of on un-aided basis w.e.f.	How many years worked on unaided basis	Transfer date w.e.f. unaided to aided	Approval on 20% grant-in-aid basis instead of 100% w.e.f.
1.	Parameshwar s/o. Kallappa Birajdar	04.01.2013 Vide approval order dtd. 19.10.2013 Page. No.24	More than 6 years	01/07/2019	01/07/2019 vide approval dtd. 25.10.2019 Granted by Education Officer(Secondary), Z.P., Solapur Page No.36
2.	Satish s/o. Shivshankar Mhamane	17.12.2012 Vide approval order dtd. 26.06.2013 Page. No.25	More than 6 years	01/08/2019	01/08/2019 vide approval dtd. 25.10.2019 Granted by Education Officer(Secondary), Z.P., Solapur Page No.37
3.	Rajendra s/o. Bhaurav Ghodake	16.06.2014 Vide approval order dtd. 07.11.2015 Page. No.26	More than 5 years	17/06/2019	17/06/2019 vide approval dtd. 25.10.2019 Granted by Education Officer(Secondary), Z.P., Solapur Page No.38
4.	Amar s/o. Prabhakar Kasture	01.01.2013 Vide approval order dtd. 19.10.2013 Page. No.27	More than 6 years	01/07/2019	01/07/2019 vide approval dtd. 25.10.2019 Granted by Education Officer(Secondary), Z.P., Solapur Page No.39

5.	Mallinath s/o. Kalyani Halsure	15.06.2011 Vide approval order dtd. 20.05.2015 Page. No.28	More than 6 years	16/06/2017	16/06/2017 vide approval dtd. 13.10.2017 Granted by Deputy Director of Education, Pune Division, Pune Page No.40
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Petitioner in Writ Petition No. 7734 of 2022

Name of Employee	Appointment & on unaided basis w.e.f.	How many years worked on unaided basis	Transfer from unaided to Aided basis	Date of approval on 20% grant-in-aid
Rukmini Shamtaram Karanjkar Working with Resp. No. 5 Junior College Deolali camp Nasik.	01.07.2013 Vide unaided Approval order dtd. 31.12.2014 Page. No.31 & 33	6 years services on unaided post	01/08/2019 Page No.37	Approval Order dt. 22.06.2020 by Dy Director Nasik Page No.39 & 41

3. It is submitted that in all these matters, the petitioners have worked on unaided posts for four years and more.

4. We have in our judgment dated 4.7.2019 in Writ Petition No. 1493 of 2018 with connected Writ Petitions held that some of the clauses of the Circular dated 28.6.2016 do not apply. It appears that the Education Officer, while granting approval to the appointment of petitioners as an Assistant Teacher from the date of transfer to the aided posts had granted approval on grant-in-aid in phase-wise manner to the effect that after five years, the petitioners would be granted approval on 20% grant-in-aid. The same would not be in tune with the order passed by this Court from time to time at this Bench and also at principal seat.

5. In case the petitioners are transferred on 100% grant-in-aid posts since the date of completion of three years, they shall be considered on 100% grant-in-aid posts. In case the petitioners are transferred on grant-in-aid posts, for example on 60%, then from the date of transfer, they would be on 60% grant-in-aid posts, but if the petitioners, after having completed three years on unaided posts and are transferred on 100% grant-in-aid posts, their services will have to be considered on 100% grant-in-aid posts. This aspect has been ignored by the Director of Education/Dy. Director of Education/Education Officer.

6. In light of above, the impugned order of granting approval in phase-wise manner is quashed and set aside and modified.

7. In case the Director of Education/Dy. Director of Education/Education Officer are satisfied about approval to the transfer of the petitioners on aided posts and if the petitioners have completed three years and more on unaided posts before they are transferred to aided posts on 100% grant-in-aid posts, then respondents-Director of Education/Dy. Director of Education/Education Officer shall consider grant of approval to the transfer of the petitioners on 100% grant-in-aid posts within a period of six months.

8. Writ Petitions are disposed of. No costs

(S. M. MODAK, J.)

(S.V. GANGAPURWALA, J.)