

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.633 OF 2022**

Sambhaji Rajaram Ubare

.. Petitioner

v/s.

The State of Maharashtra Thr. Secretary

And Ors.

.. Respondents

....

Mr. Prashant Bhavake, for the Petitioner.

Mr. N.C. Walimbe, AGP, for State.

Mr. Utkarsh Desai, i/b. Mr. Umesh Pawar, for Respondent Nos. 6 and 7.

....

**CORAM: SUNIL B. SHUKRE &
G.A. SANAP, JJ.**

DATE : 28 FEBRUARY 2022

P.C:-

Heard.

2. Rule. Rule made returnable forthwith and heard finally by consent of parties.

3. The Petitioner is an Assistant Teacher, who has been transferred from unaided post in Higher Secondary Division of

Respondent No.7 School to aided post in Secondary Division of Respondent No.7 School by the same management. Transfer of the Petitioner has taken place on 21 August 2019, which was at a time when Rule 41-A of Maharashtra Employees of Private Schools (Conditions of Service) (Amendment) Rules, 2020 had not come into force. Rule 41-A was introduced later and it came into force with effect from 8 June 2020.

4. The facts narrated above would show that they are similar to the facts of Writ Petition No.3817 of 2021 decided on 15 February 2022 wherein this Court took a view that in case of the school employees, who have been transferred from un-aided school to aided school before commencement of Rule 41-A, condition of completion of five years of service is not required to be fulfilled or, in other words, the requirements of Rule 41-A would not be applicable. The facts of this case are governed by the view taken by this Court in the said writ petition.

5. The petition is therefore, allowed in terms of prayer clause (b) except with the modification that the approval shall be granted and salary with arrears shall be released at the earliest, preferably within a period of eight weeks from the date of receipt of the order.

6. Rule is made absolute in the above terms. No costs.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)