

Uday S. Jagtap

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 13804 OF 2022

Atul Shamrao Kumbhar

.. Petitioner

Vs.

The State of Maharashtra,
Through Secretary School Education
and Sports Dept. & Ors.

.. Respondents

.....

Mr. Prashant Bhavake for the petitioner

Mr. S.B. Kalel, AGP for the respondent – State

.....

**CORAM : S.V. GANGAPURWALA &
S.G. DIGE, JJ.**

DATED : 18th NOVEMBER, 2022.

P.C.

1. We have heard learned Counsel for the petitioner and the learned AGP.

2. In this matter, the proposal seeking approval to the transfer of the petitioner from unaided post to aided post is approved, however, as “Shikshan Sevak” from the date of transfer.

3. The prima dona contention is that the services rendered on the unaided post has not been considered.
4. Approval, it appears, is given relying upon the Circular dated 28th June, 2016.
5. This Court in Writ Petition No.1493 of 2018 with connected writ petitions under order dated 4th July 2019 has held that some of the clauses of the Circular dated 28th June 2016 are erroneous and cannot be relied upon. The services rendered on the unaided post are required to be considered.
6. If the employee has rendered three years or more service on unaided post as Assistant Teacher and is transferred to the aided post, then the approval has to be on 100% grant-in-aid post as an Assistant Teacher.
7. In case the candidate has only completed two years service on the unaided post and is transferred to the 100% grant-in-aid post,

then for a period of one year he will have to be approved as Shikshan Sevak and thereafter, as an Assistant Teacher. In present case, the chart giving details of the appointment of the petitioner on the unaided posts, date of transfer and the date of approval to the unaided posts is reproduced herein under :-

Sr. No.	W.P. No.	Name of Petitioner	Un-aided Appointment	Un-aided Approval	Transfer to 100% Aided	Transfer Approval
1	13804/2022	Atul Shamrao Kumbhar	15.07.2018	19.11.2019	01.06.2020	08.04.2022

8. The petitioner has worked on unaided post for 1 year, 10 months and 16 days. In such event, the petitioner's services is required to be approved as "Shikshan Sevak" on aided post for the remaining period of 3 years and upon completion of total service of 3 years, the petitioner would be granted approval as an Assistant Teacher.

9. The Education Officer shall confirm the date of the transfer on 100% grant-in-aid post and if it is convinced that the transfer of the petitioner is on 100% grant-in-aid then shall approve them accordingly.

10. The impugned order to the extent of approval for the transfer as “Shikshan Sevak” are quashed and set aside. The said exercise be done within four months from today.

11. The Writ Petition is accordingly disposed of. No costs.

(S.G. DIGE, J.)

(S.V. GANGAPURWALA, J.)