

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3506 OF 2022

Rajaram Babaso Bhole

...Petitioner

V/s.

The State of Maharashtra through

the Secretary and Ors.

...Respondents

Mr. S. A. Rajeshirke, for the Petitioner.

Mr. N. C. Walimbe, A.G.P. for the Respondent-State.

CORAM : A. S. CHANDURKAR AND
G. A. SANAP, JJ.

DATE : 28 April 2022

MAMTA
AMAR
KALE
Digitally
signed by
MAMTA
AMAR
KALE
Date:
2022.04.29
17:53:01
+0530

P.C.

. Rule. Rule made returnable forthwith. Heard finally by consent of the parties. Considering the facts of the case, the service on respondent Nos.4 and 5 is dispensed with.

2. The petitioner has been appointed on the post of Lecturer in the respondent No.5-Junior College, pursuant to the order of appointment dated 4 June 2010. The said appointment was to take effect from 14 June 2010. The post on which the petitioner was appointed was an unaided post. Subsequently, on 2

November 2013, the approval was granted to his appointment from 17 June 2013 for the period of probation. Subsequently, on 25 July 2018, the services of the petitioner were transferred from the non-aided post to an aided post at the Junior College at Sangli. This transfer was to take effect from 1 August 2018. On 28 March 2019, the services of the petitioner were approved from 1 August 2018 however, by observing that the same was to the extent of 20% grant-in-aid admissible to the post. Being aggrieved, the petitioner has challenged the aforesaid order.

3. The learned counsel for the petitioner submits that this Court in Writ Petition (St) No.93919/2020 in Sandhya D/o. Balkrushna Teli & Ors. Vs. The State of Maharashtra decided on 12 March 2021 has held that on completion of the period of probation and on attaining the status of a confirmed employee, if any, transfer was effected on an aided post, the same should be admissible to 100% grant. He submits that this legal position is now well settled and on that premise the petitioner is entitled for appropriate relief.

4. The learned Assistant Government Pleader has referred to the amendment in Rule 41(A) of the Maharashtra Employees of Private Schools (Condition of Services) Rules, 1981, which came into effect on 8 June 2020. He however does not dispute the legal position as held in the aforesaid judgment.

5. On hearing the learned counsel for the parties, we find that this Court in the aforesaid decision has held that the amendment to Rule 41(A) of the Rules of 1981, does not have retrospective effect. The petitioner's transfer has taken place prior to that date and hence for the reasons stated in the aforesaid decision, we find that the petitioner is entitled for appropriate relief.

6. Accordingly, the following order is passed.

ORDER

(i) The order dated 28 March 2019 passed by the Deputy Director of Education approving the transfer of the petitioner from a non-aided section to the aided section only to the extent of 20% grant is modified.

(ii) It is held that approval is liable to be granted to the extent of 100% grant-in-aid.

(iii) Subject to the aforesaid modification and by holding the petitioner entitled for all consequential benefits, in view of aforesaid adjudication, the Writ Petition is allowed and disposed of.

(iv) Rule is made absolute in the aforesaid terms. No costs.

(G. A. SANAP, J.)

(A. S. CHANDURKAR, J.)