

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

WRIT PETITION NO. 4659 OF 2022

Kavita W/O. Kedar Deshpande ...Petitioner
vs.
The State of Maharashtra
Through Prin. Secretary,
Edu. And Sports Dept. and Ors. ...Respondents

Mr. Paresh Borse - Advocate for the Petitioner
Smt. P. J. Gavhane - AGP for the Respondent-State

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

DATE : 11th JULY, 2022

P. C. :-

1. We have heard the learned counsel appearing for the Petitioner and learned AGP.
2. The proposal seeking approval to the transfer of the Petitioner from unaided post as Shikshan Sevak to aided post is approved, but on honorarium manner.
3. It appears that the Petitioner claims to have been appointed on unaided post on 28/12/2012. The Petitioner's appointment on unaided post is approved under Order dated 07/04/2015 by the Education Officer. The Petitioner is transferred to the aided post with effect from 02/09/2016. The Petitioner is granted an approval relying upon the circular dated 28/06/2016.

4. The transfer of the Petitioner to the aided post is prior to the amended Rule 41A of the Maharashtra Employees of Private Schools (Condition of Service) Rules, 1981. The aforesaid factual matrix does not seem to be disputed. The Petitioner has rendered service of more than five years on the unaided post before transfer to the aided post.
5. This Court under Judgment and Order dated 04/07/2019 in Writ Petition No. 1493 of 2018 and connected writ petitions has observed that some of the clauses of the circular dated 28/06/2016 are erroneous. It is further observed in the said judgment that if a person has rendered more than three years of service on the unaided post before transfer to 100% grant in aid post, then the approval has to be granted on the 100 % grant in aid post.
6. In light of the above, impugned Order to the extent of grant in approval in honorarium manner is quashed and set aside.
7. The Education Officer shall confirm for himself that the transfer of the Petitioner was on 100% grant in aid post and if convinced that the transfer of the Petitioner was on 100% grant in aid post, shall grant approval to the transfer of the Petitioner on 100% grant in aid from the date of his transfer to the aided post.
8. The said exercise shall be done preferably within eight weeks.
9. Writ Petition is disposed of.

[S. M. MODAK, J.]

[S.V. GANGAPURWALA, J.]