

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3284 OF 2021

Shashikant Ratnu Kinjalkar	...	Petitioner
Versus		
The State of Maharashtra & Ors.	...	Respondents

WITH
WRIT PETITION NO. 5307 OF 2021

Prabhat Pandharinath Mestri	...	Petitioner
Versus		
The State of Maharashtra & Ors.	...	Respondents

WITH
WRIT PETITION NO. 5306 OF 2021

Swapnil Arun Kamble	...	Petitioner
Versus		
The State of Maharashtra & Ors.	...	Respondents

WITH
WRIT PETITION NO. 3294 OF 2021

Amol Dattatray Patil	...	Petitioner
Versus		
The State of Maharashtra & Ors.	...	Respondents

Mr. N. V. Bandiwadekar i/b. Mrs. Ashwini Bandiwadekar,
Advocate for the Petitioners.

Mr. P. N. Diwan, AGP for the Respondents/State.

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

DATED : JULY 12, 2022

P.C.

1. We have heard learned Counsel for the petitioners and the learned AGP.
2. In all these matters, the proposal seeking approval to the transfer of the petitioners 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 petitioners 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	3284/2021	Shashikant Ratnu Kinjalkar	01.10.2012	25.07.2016	01.08.2016	11.01.2017
2	5307/2021	Prabhat Pandharinath Mestri	12.08.2013	18.01.2014	01.08.2016	09.12.2016
3	5306/2021	Swapnil Arun Kamble	30.06.2013	12.06.2014	06.02.2017	14.03.2017
4	3294/2021	Amol Dattatraya Patil	14.03.2013	27.03.2015	15.12.2017	29.12.2017

8. It transpires that except the petitioner in Writ Petition No.5307 of 2021, all the petitioners have completed three years or more service on the unaided post. If they are transferred on 100% grant-in-aid post, then they are to be approved as an Assistant Teacher on 100% grant-in-aid post. The petitioner in Writ Petition No. 5307 of 2021 if he is transferred to 100% grant-in-aid post, then for a period of 11 days he will have to be approved as Shikshan Sevak and thereafter 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 petitioners 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 petitions are accordingly disposed of. No costs.

(S. M. MODAK, J.)

(S.V. GANGAPURWALA, J.)

Gaikwad Rd