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

WRIT PETITION NO. 5072 OF 2021

Shamala Vijay Kshirsagar And AnrPetitioner

V/S

The State Of Maharashtra And AnrRespondent

WITH

WRIT PETITION NO. 5074 OF 2021

Balu Laxman Vabale And AnrPetitioner

V/S

The State Of Maharashtra And AnrRespondent

WITH

WRIT PETITION NO. 5075 OF 2021

Yogita Satish Vispute And AnrPetitioner

V/S

The State Of Maharashtra And AnrRespondent

WITH

WRIT PETITION NO. 5076 OF 2021

Ramdas Chindhu Thalkar And AnrPetitioner

V/S

The State Of Maharashtra And AnrRespondent

WITH

WRIT PETITION NO. 5078 OF 2021

Sanjay Vishvnath Gaikwad And AnrPetitioner

V/S

The State Of Maharashtra And AnrRespondent

**WITH
WRIT PETITION NO. 5079 OF 2021**

Sagar Pandurang Lonari And Anr Petitioner
V/S
The State Of Maharashtra And Anr Respondent

Ms. Pranita P. Hingmire for the Petitioners in all Petitions.

Mrs. P.J. Gavhane AGP for the Respondent-State.

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

DATED : 23RD JUNE 2022

P.C. :

1. The proposal seeking approval of transfer of the Petitioners from the un-aided posts to aided posts are allowed but in phase wise grant-in-aid manner.
2. We have heard learned counsel for the Petitioners and learned AGP for the Respondent-State.
3. The chart showing transfer of the Petitioners from the unaided posts to aided posts and the date of grant of approval are detailed hereunder :

Sr. No.	Name of Petitioner	Writ Petition No.	Date of Appointment	Date of transfer on aided post	Approval granted to transfer on stage wise salary grant
1.	Shamala Kshirsagar	5072/2021	12/06/2003	01/06/2018	24/08/2018
2.	Balu Vabale	5074/2021	14/06/2002	17/06/2018	06/01/2022
3.	Yogita Vispute	5075/2021	07/06/2006	01/07/2018	24/08/2018
4.	Ramdas Thalkar	5076/2021	14/06/2002	01/03/2017	18/07/2018
5.	Sanjay Gaikwad	5076/2021	14/06/2002	01/03/2017	18/07/2018
5.	Sagar Lonari	5078/2021	15/06/2012	01/03/2018	24/08/2018

It would appear that the Petitioners have rendered services of more than six years on the un-aided posts before they were transferred to aided posts, in some cases it is even more.

4. This Court in its judgment and order dated 4th July 2019 in Writ Petition No.1493 of 2018 and connected Writ Petitions has held that some of the clauses of circular dated 28/06/2016 are erroneous and cannot be operative, if transfers of the Petitioners on aided posts is prior to the amendment of August 2020 to Rule 41A of the M.E.PS. Rules.

5. In the light of that if the Petitioners have worked for more than three years prior to transfer on the aided posts and aided posts to which the Petitioners are transferred are 100% grant-in-aid then approval is to be granted on 100% grant-in-aid.

6. In the light of above, the impugned order granting approval to the transfer of the Petitioners to the aided posts in phase wise manner is set aside.
7. The Respondent - Education Officer shall reconsider the said proposal to the extent of grant of transfer of 100% grant-in-aid. If the Education Officer comes to the conclusion that the posts on which the Petitioners are transferred are 100% grant-in-aid then shall grant approval to transfer of the Petitioners to the aided posts on 100% grant-in-aid.
8. We have passed this order as transfer of the Petitioners were already approved meaning thereby the Education Officer had considered seniority, roster, qualification and all other aspects of matter.
9. The Writ Petitions are accordingly disposed of. No costs.

(S. M. MODAK, J.)

(S. V. GANGAPURWALA, J.)