

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 10324 OF 2022**

Udaysinh Tanajirao Bhosale ... **Petitioner**
 Versus
 The State of Maharashtra & Ors. ... **Respondents**

WITH**WRIT PETITION NO. 10325 OF 2022**

Abhijit Rajgonda Kothale ... **Petitioner**
 Versus
 The State of Maharashtra & Ors. ... **Respondents**

Mr. Prashant Bhavake, Advocate for the Petitioners.

Mr. V. M. Mali, AGP for the Respondents/State.

**CORAM: S.V. GANGAPURWALA &
 R. N. LADDHA, JJ.**

DATED : SEPTEMBER 6, 2022

P.C.

1. The petitioners are transferred from unaided to aided posts.
2. The learned Counsel for the petitioners has placed on record the chart showing the date of initial appointment on unaided posts, the date of approval to the appointment on unaided posts, the date of transfer to the aided posts and the approval granted to the transfer on the unaided posts. The same is reproduced hereunder:

Sr. No	Writ Petition No.	Name of the Petitioner	Date of appointment as	Date of approval to unaided	Date of transfer on aided post of	Period of total service on Unaided	Date & Name of the Authority granting Approval to
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			Asst. Teacher on Unaided Post	appointm ent	Asst. Teacher	Post	transfer on partially grant/ Fixed Honorarium instead of 100% Salary admissible as per pay scale
1.	WP/ 9147/ 2022	Amit Vijay Patil	16/06/ 2008	28/04/ 2009	01/06/ 2020	11 years 11 months 15 days	24/11/2020 Respondent No.5- Education Officer
2.	WPST/ 19069 /2022	Namdev Mahadev Yemetkar	17/06/ 2013	21/09/ 2013	01/06/ 2019	5 years 11 months 16 days	5/9/2019 Respondent No.5- Education Officer
3.	WPST/ 19068 /2022	Chetna Manohar Korde	17/06/ 2013	21/09/ 2013	15/06/ 2017	3 years 11 months 28 days	17/12/2018 Respondent No.5- Education Officer
4.	WPST/ 25770 /2021	Gajanan Shankar Patil	10/01/ 2013	25/09/ 2013	30/06/ 2016	3 years 5 months 20 days	27/02/2019 Respondent No.5- Education Officer

3. It is submitted that in all these matters, the petitioners have worked on unaided posts for more than three years.

4. We have in our judgment dated 4.7.2019 in Writ Petition No. 1493 of 2018 with connected Writ Petitions held that some of the clauses of the Circular dated 28.6.2016 do not apply. It appears that the Education Officer, while granting approval to the appointment of petitioners as an Assistant Teacher from the date of transfer to the aided posts had granted approval on grant-in-aid in phase-wise manner to the effect that after five years, the petitioners would be granted approval on 20% grant-in-aid. The same

would not be in tune with the order passed by this Court from time to time at this Bench and also at principal seat.

5. In case the petitioners are transferred on 100% grant-in-aid posts since the date of completion of three years, they shall be considered on 100% grant-in-aid posts. In case the petitioners are transferred on grant-in-aid posts, for example on 60%, then from the date of transfer, they would be on 60% grant-in-aid posts, but if the petitioners, after having completed three years on unaided posts and are transferred on 100% grant-in-aid posts, their services will have to be considered on 100% grant-in-aid posts. This aspect has been ignored by the Director of Education /Education Officer.

6. In light of above, the impugned order of granting approval in phase-wise manner is quashed and set aside and modified.

7. In case the Director of Education / Education Officer are satisfied about approval to the transfer of the petitioners on aided posts and if the petitioners have completed three years and more on unaided posts before they are transferred to aided posts on 100% grant-in-aid posts, then respondents - Director of Education/ Education Officer shall consider grant of approval to the transfer of the petitioners on 100% grant-in-aid posts within a period of six months.

8. Writ Petitions disposed of. No costs

(R. N. LADDHA, J.)

(S.V. GANGAPURWALA, J.)