

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

87 WRIT PETITION NO.11660 OF 2021

SONYABAPU EKNATH RAIKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Gorde Patil Sandeep
AGP for Respondent Nos. 1 & 2 : Mrs. M.A. Deshpande
Advocate for Respondent Nos. 3 & 4 : Mr. A.B. Jagtap

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 10.07.2023

PER COURT :

Heard both the sides.

2. In fact, the impugned order granting approval to the transfer from unaided division to aided division of the petitioner and two other individuals from the date of joining in the transferred post was passed by a common order on 19.09.2019. The other two individuals Sherkar Pandharinath Bhagwat and Amrut Devidas Patange were before this Court in Writ Petition No. 5879/2020 aggrieved by the self-same order dated 19.09.2019. By the order dated 10.01.2022 the Writ Petition was allowed with the following order :

“1. The learned Counsel for the Petitioners submits that both these Petitioners are appointed on the unaided posts as Assistant Teacher on 14.06.2001. Their appointments on unaided posts are approved by the Authority under its order dated 16.12.2008. The Petitioner No. 1 is transferred to the aided post on 12.06.2017 and Petitioner No. 2 is

transferred to the aided post on 15.06.2018. Their proposals seeking approval to the transfer of the Petitioners from unaided to aided posts are approved but in a phase-wise grant-in-aid manner from the date of their transfer.

2. We have also heard the learned A.G.P for Respondents No. 1 and 2.

3. It appears that the present Petitioners have also filed earlier Writ Petitions bearing no.4266 of 2018 and 8254 of 2018 respectively. The same were decided under the common Judgment dated 04.07.2019 with other connected Writ Petitions. Under the said Judgment, the orders rejecting the proposals were set aside and the Respondent / Education Officer was directed to re-consider the said proposals in light of the Judgment delivered.

4. Subsequently, the proposals are approved, however, in a phase-wise grant-in-aid manner.

5. This Court under it's Judgment and Order dated 04.07.2019 in Writ Petition No. 1493 of 2018 with connected Writ Petitions has observed that some of the clauses of the Circular dated 28.06.2016 are erroneous. If the Petitioners have completed 3 years of service on unaided post and if thereafter transferred on 100% grant-in-aid post then, the services are required to be approved on 100% grant-in-aid post.

6. In light of that, the impugned order to the extent of granting approval in a phase-wise grant-in-aid manner is set aside.

7. The Education Officer shall verify the transfer of the Petitioners on 100% grant-in-aid posts and if, he is satisfied that the transfer of the Petitioners was on 100% grant-in-aid posts then, shall grant approval to the transfer of the Petitioners since the date of their transfer to the aided posts on 100% grant-in-aid. The said exercise shall be done preferably within four (04) months.

8. We have passed the aforesaid order in view of the fact that approval has been granted by the Education Officer to the transfer of the Petitioners from unaided to aided posts, meaning thereby, that the Education Officer was convinced about the seniority of the Petitioners, the roster and the qualification possessed by the Petitioners.

9. The Writ Petition accordingly stands disposed of. No costs.

10. In view of disposal of the Writ Petition, the Civil Application is also disposed of.”

3. In our considered view, except the fact that the petitioner joined the transferred post on 02.07.2018, the aforementioned directions would equally serve the purpose and are sufficient to decide this petition. We accordingly dispose of the Writ Petition with the aforementioned directions.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-