



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1590/2023

Yogita D/o Ambadas Ugle @ Yogita
W/o Rajesh Bali, aged about
47 Yrs., Occ. Service, R/o Gadgebaba
Nagar, Akola Fata, Malegaon,
Tah. Malegaon, Dist. Washim.

... Petitioner

- Versus -

1. The Education Officer (Secondary),
Zilla Parishad, Washim.
2. Shikshan Prasarak Mandal,
Gandhi Chowk, Near Hanuman
Temple, Malegaon, Tah. Malegaon,
Dist. Washim, through its Secretary.
3. Nathuram Narayandas Mundada
Vidyalaya, Malegaon, Tah. Malegaon,
Dist. Washim, through its Head
Master.

... Respondents

Mr. N.B. Kalwaghe, Counsel for the Petitioner.
Mr. A.S. Fulzele, Additional Government Pleader for Respondent
No.1.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 6.9.2023

ORAL JUDGMENT (Per A.S. Chandurkar, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioner came to be appointed on the post of Assistant Teacher on 1.8.2013 at the respondent No.3 School. The said appointment was on an unaided post. Approval was granted to the appointment of the petitioner for the period of probation by the order dated 20.8.2013. According to the petitioner, on completion of the period of probation he acquired the status of a deemed permanent employee. The services of the petitioner came to be transferred from unaided section to an aided section of the school by Resolution dated 30.6.2018. An order to that effect was passed on 1.7.2018. The transfer of the petitioner came to be approved on 11.8.2020 by stating that same was for a period of three years from 1.7.2018 as Shikshan Sewak. Being

aggrieved by the aforesaid order, the petitioner has challenged the same.

3. It is submitted by the learned counsel for the petitioner that after completion of the period of probation the petitioner was entitled to hold the post of Assistant Teacher as a confirmed employee. The period of probation having completed on 1.8.2016 there was no justification in again granting approval of period of three years as Shikshan Sewak from 1.7.2018. Reliance is placed on the decision in Writ Petition No.3504/2021 (Sarita D/o Durgaprasad Shukla V/s. The State of Maharashtra and others) decided on 24.8.2022 to submit that the petitioner is entitled for approval as an Assistant Teacher.

4. On 29.8.2023 the learned Additional Government Pleader for respondent No.1 was granted time to examine as to whether the claim of the petitioner would be reconsidered in the light of aforesaid decision. On instructions it is submitted that

ratio of the aforesaid decision could be made applicable to the present case.

5. Hence for reasons recorded in the judgment in Sarita D/o Durgaprasad Shukla (supra) the following order is passed:-

- i) The order dated 11.8.2020 passed by the Education Officer (Secondary) is set aside.
- ii) The respondent Nos.2 and 3 shall send fresh proposal seeking approval to the appointment of the petitioner as Assistant Teacher within a period of three weeks of receiving copy of the judgment.
- iii) The petitioner shall serve copy of the judgment on the respondent Nos.2 and 3.
- iv) After receiving such proposal, the Education Officer (Secondary) shall consider the same within a period of four weeks.
- v) The decision taken be communicated to the petitioner as well as the Management.

6. With the aforesaid directions, writ petition is allowed.

Rule is made absolute. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)

Tambaskar.