



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10441 OF 2024

Mirza Shahzad Baig S/o Ubaid Baig
Age : 37 years, Occu : Service,
R/o 1111, Main Road, Baig Complex,
Mirza Line, Ashti, Tq. Ashti,
Dist. Beed

.. Petitioner

Versus

The State of Maharashtra
Through its Secretary
School Education Department,
Mantralaya, Mumbai and others

.. Respondents

...
Advocate for petitioner : Mr. Akram Inamdar h/f. Mr. S.S. Kazi
Addl. GP for the respondent – State : Mr. P.S. Patil
...

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

DATE : 24 SEPTEMBER 2024

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard both the sides finally.

2. Though the petitioner has been appointed on compassionate ground pursuant to the death of his mother on 03-02-2021, has been granted approval only on an honorarium of Rs.1700/- per month.

3. Learned advocate for the petitioner cites several decisions culminating in passing the order by a co-ordinate division bench in the matter of ***Salmaan Chuash S/o Saeed Choush Vs. The State of***

Maharashtra and others (writ petition no. 7357 of 2023 dated 10-05-2024). He would submit that the very fact that petitioner was given an appointment on compassionate ground would make the appointment permanent from day one. There cannot be any question of probation or the employment being temporary, still, the approval has been granted on an honorarium when he should have been granted approval on pay scale basis.

4. The learned AGP would oppose the petition and would submit that already the petitioner has made representation to the Education Officer (**Exhibit – E**) and at the most direction be issued to the Education Officer to take appropriate decision on the petitioner's representation.

5. Though in the normal course, we would have directed the Education Officer to pass appropriate orders on the petitioner's representation, however, when the legal position has been settled by catena of decisions of the Supreme Court and the High Court, which in all probability, the Education Officer may not follow, the purpose of filing of the writ petition would not be served by issuing simple direction to decide the representation.

6. To cut short, as has been culled down in **Salman Chaush** (supra), since the petitioner was appointed on compassionate ground, there would be no question either of the appointment being temporary

or on probation. He would be entitled to have the full salary according to the scale prescribed from the day one.

7. We, therefore, allow the writ petition and direct the respondent – Education Officer to pass fresh order in the light of above observations as expeditiously as possible and in any case within three weeks.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/