



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1007 WRIT PETITION NO. 4319 OF 2025

Rekhatai Gangaram Budhewar Alias Rekhatai Sunil Ghayal

VERSUS

The State Of Maharashtra Through Its Secretary And Others

AND

1008 WRIT PETITION NO. 4347 OF 2025

Devanand Dattram Borate And Others

VERSUS

The State Of Maharashtra Through Its Secretary And Other

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Mr. Kulkarni Suvidh S., Advocate for the PetitionerS

Mr. Amar V. Lavte, AGP for Respondents State

Ms. Yogita S. Thorat, Advocate for respondent nos. 4 and 5.

CORAM : MANGESH S. PATIL &
Y. G. KHOBRAGADE, JJ.

Dated : 24th April, 2025

PER COURT :-

1. The petitioners, who are employees of Zilla Parishad schools, are aggrieved by the fact that in spite of having spent sufficient time, more than prescribed, by the policy for effecting transfer out of the difficult area, pursuant to clause nos. 1.7.1 and 1.7.2 of the government resolution dated 18.06.2024, respondents have not been calculating the period spent by them in the difficult area and consequently are not ready to consider them while effecting transfer.

2. We have heard both sides.

3. Admittedly, a similar issue has already been addressed and decided by the division bench of this Court at the principal seat (writ petition no. 9495/2023) which has elaborately considered the relevant clauses and has held to be not sustainable or have to be read down in that matter as is being sought to be interpreted by the authority. The following paragraphs, in our considered view, squarely apply to the present matter:

“5. The recently issued Government resolution dated 18th June, 2024 is brought to our notice, relevant clauses being no.1.7 (1.71 and 1.7.2), which reads as under:

१.७ बदली अधिकार प्राप्त शिक्षक :-

१.७.१ बदली अधिकार प्राप्त शिक्षक म्हणजे ज्या शिक्षकांची अवघड क्षेत्रात बदलीसाठी निश्चित धरावयाची सेवा ३ वर्षे किंवा त्यापेक्षा जास्त झाली असेल असे शिक्षक,

१.७.२ अवघड क्षेत्रातील शाळांची सुधारित यादी प्रसिध्द केल्यानंतर सर्वसाधारण क्षेत्र म्हणून घोषित झालेल्या मात्र पूर्वी अवघड क्षेत्रामध्ये मोडणाऱ्या शाळांमधील शिक्षकांची सलग सेवा ३ वर्षे झालेली असेल तर, त्यांना पुढील बदली वर्षामध्ये बदली अधिकार प्राप्त करण्यासाठी ग्राह्य धरण्यात येईल.”

6. Above reproduced clause clearly indicates that a teacher (not a lady teacher any more) who has worked for three years in a difficult area, would acquire the right to be transferred out of the difficult area. Cause 1.7.2 makes it even more clear that if the difficult area in which a teacher has been working and has completed the period entitling him a right to be

transferred, is subsequently converted into a plain area due to developments, the time spent by the teacher in the said difficult area before its conversion, would also give advantage to the candidate as he had worked in the difficult area. He would get the right to be transferred out of that area.

7. It is in the above backdrop that the Desk Officer addressed a letter dated 28th February, 2025 to the Chief Executive Officer of the Thane Zilla Parishad which has led to the confusion due to which this Petition has been filed. Clause (1) of the said letter which has led to the confusion reads as under:

"१) मुद्दा क्र. १ व २:- अवघड क्षेत्रातील शाळा सर्वसाधारण क्षेत्रामध्ये समाविष्ट झाल्यास, त्यापूर्वी एखाद्या शिक्षकाने अवघड क्षेत्रातील शाळेमध्ये केलेली सेवा ही अवघड क्षेत्रातील सेवा समजण्यात यावी व सदर अवघड क्षेत्रातील कालावधी खंडीत सेवा धरून या शिक्षकांच्या सर्वसाधारण क्षेत्रातील बदलीबाबत कार्यवाही करावी."

8. A weird situation is before us. The Desk Officer has unnecessarily used the words "सदर अवघड क्षेत्रातील कालावधी खंडीत सेवा धरून या शिक्षकांच्या सर्वसाधारण क्षेत्रातील बदलीबाबत कार्यवाही करावी". There is no question of treating a person's tenure of deployment in a difficult area, to be a break in service after the area gets converted into a plain area.

9. The learned AGP, on instructions from the Desk Officer present in the Court, has made an attempt to interpret the word "खंडीत सेवा" to mean that it does not amount to a break in service. We are surprised, to say the least. An unnecessary effort is made to explain the meaning of the word "खंडीत सेवा" by informing us that it does not mean that there would be any

break in service. These are words which were not required to be mentioned in the letter dated 28th February, 2025. Clause 1.7.1 and 1.7.2 are unambiguous and clear sentences which do not require any clarification by the Desk Officer.”

4. In the light of above, irrespective of articulation of the prayer clause, we dispose of the writ petitions by directing the respondents to consider case of each of these petitioners on its own merits in order to ascertain the period they have spent in the difficult area, without resorting to the interpretation which has not been found favour with the division bench which decided in writ petition no. 9495 of 2023.

5. Depending upon the scrutiny, the respondents shall permit the individual petitioners to fill in the requisite forms while effecting general transfers, by permitting them to submit the forms online and if required, even offline.

(Y. G. KHOBRADE, J.)

(MANGESH S. PATIL, J.)

JPCavan