

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10230 OF 2015

Nanded-Waghala City Municipal Corporation,
Through its Commissioner,
Laxman S/o Kashiram Chaure,
Age-46 years, Occu-Service as Asstt.
Commissioner,
R/o Nanded, Tq. and Dist. Nanded

PETITIONER

VERSUS

Keroji Sitaram Dasare,
Age-49 years, Occu-Nil,
R/o Dayanand Nagar, New Mondha,
Nanded, Tq. and Dist. Nanded

RESPONDENT

Mr.R.K.Ingole Patil, Advocate for the petitioner.
Mr.A.P.Piratwad, Advocate for the respondent. (Absent)

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 04/12/2015

PER COURT :

1. The petitioner is aggrieved by the judgment and order dated 03/07/2015 by which Complaint (ULP) No.4/2012 has been partly allowed.

2. Contention of the petitioner is that the sole respondent was dismissed from service on 23/04/2014 after conducting a domestic enquiry. Complaint (ULP) No.4/2012 was filed by the respondent on 03/01/2012 prior to his dismissal. The respondent had relied upon

a Resolution dated 01/08/2009 purportedly passed by the petitioner/Corporation, but not implemented.

3. The petitioner submits that a fireman namely Shaikh Reis Pasha has already been promoted and the petitioner's claim cannot be considered as the said post is occupied. The dismissal of the respondent from service is sufficient to deprive him of seeking any benefit under the said Resolution.

4. While allowing the complaint, the Industrial Court has imposed costs of Rs.5,000/- upon the petitioner. The same was unwarranted. It is, therefore, prayed that since the Resolution cannot be legally implemented, the impugned judgment of the industrial Court is rendered unsustainable.

5. Learned Advocate appearing on behalf of the respondent is absent.

6. I have considered the submissions of the petitioner.

7. It is not disputed that the Resolution dated 01/08/2009, which recommended the promotion of the respondent to the post of Sub-

Fire Officer is on the basis of the recommendations of the Selection Committee. However, it was not established before the Industrial Court as to whether the said Resolution can be implemented.

8. The Industrial Court concluded that though the Resolution has been passed, it is not a final decision and the said Resolution will have to be forwarded to the appropriate authority/State Government for considering its validity and thereafter by completing the legal formalities, the Resolution could be implemented.

9. The Industrial Court has also concluded that the said Resolution will have to be scrutinized by the competent authority and in the event it is legal and valid, the appropriate authority can issue necessary directions for promoting the respondent to the post of Sub-Fire Officer. The Industrial Court has also concluded that the required qualification is a condition which the respondent has to fulfill and after considering his qualification, the competent authority can take a decision.

10. I, therefore, do not find that these conclusions of the Industrial Court in paragraph nos. 11 and 12 could be termed as being perverse and erroneous.

11. The petitioner is also aggrieved by the imposition of costs of Rs.5,000/- by the Industrial Court. Considering the directions issued by the Industrial Court in clause 'C' and 'D' of the impugned judgment dated 03/07/2015, I do not find that there was any necessity for the Industrial Court to impose costs upon the petitioner.

12. This petition is, therefore, partly allowed only to the extent of setting aside the costs imposed upon the petitioner by the Industrial Court. Rest of the conclusions and directions issued by the Industrial Court are maintained.

(RAVINDRA V. GHUGE, J.)