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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.7008/2015

Deepak Uttamrao Shejwal.

...Petitioner..

Versus

The Principal Secretary,

Urban Development Department & others.

...Respondents...

.....

Shri K.M. Nagarkar , Advocate for petitioner.

Smt.A.V. Gondhalekar, AGP for respondent nos.1 to 3.

Shri Ajinkya P. Deshmukh, Advocate for respondent no.4.

None present for respondent nos.5 to 10.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 08.12.2016

ORDER :

1] Mr.Nagarkar, learned counsel for the petitioner submits that the petitioner is entitled to be appointed to the post of Sub-Overseer. In fact, since 1996, the post of Sub-Overseer was vacant. However, the case of the petitioner was not considered. The learned counsel submits that the petitioner had approached the Industrial Court also, however, the facts were not properly

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represented by the respondent for extraneous reasons. The details are given in the petition as to how the respondent nos.5 to 10 have committed illegalities though they are not entitled to occupy the posts they are occupying, still by illegal acts, though they are not qualified, they are occupying the said posts. The learned counsel submits that the petitioner has made representation with various authorities. The same is also not considered.

2] The learned counsel for the respondent – Municipal Council submits that the petitioner is appointed as a Peon under the orders of the Court and the petitioner has accepted the said appointment. Since 2005, there is no post of Sub-Overseer vacant.

3] We have considered the submissions canvassed by the learned counsel appearing for the parties.

4] The petitioner had earlier approached the Industrial Court. The order of the Industrial Court was assailed before this Court in Writ Petition No.4195/2004. The learned Single Judge of this Court on 12.12.2003 passed an order accepting the statement of the learned counsel for the present petitioner to the effect that the

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petitioner has given up the claim for the post of Draftsman for the present and accepts the post of Peon and upon the joint request of learned counsel for both the parties, the said writ petition was disposed of.

5] In view of the said statement, it would not be possible to revert back to the position prior to 12.12.2003.

6] The respondent – Municipal Council shall consider the cause of the petitioner and the grievance of the petitioner made in the representation with regard to the facts on and after 12.12.2003. It would also consider the case of the petitioner for appointment on the post of Sub-Overseer or such other post as the petitioner would be qualified as and when the vacancy arises of the said post.

7] Writ petition is accordingly disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)