

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6767 OF 2016

Kumar Maruti Dhobale

..Petitioner

Versus

Brihanmumbai Mahanagar Palika and another

..Respondents

Shri. C. G. Jadhav i/by Shri. Mahesh Thorat for the Petitioner.

Shri. S. S. Pakale i/by Shri. Vinod Mahadik for the Respondent No.1.

CORAM : R. M. SAVANT, J.

DATE : 25th OCTOBER, 2016

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 01.05.2016 passed by the Learned Presiding Officer, Industrial Tribunal, Mumbai, by which order, the Reference in question being Reference (IT) No.32 of 2013 came to be answered in the affirmative in respect of 13 lifeguards and the directions as contained in the operative part of the impugned order came to be issued. The relevant excerpt of the operative part reads thus :-

“2) Lifeguards no.1, 2, 4, 5, 6, 7, 8, 11, 12, 16 & 17 namely Mr. Nitish Harishchandra Sangvekar, Mr. Nathuram Prabhakar Suryawanshi, Mr. Sarvesh Balaram Thakur, Mr. Vijaysingh Atmaram Rathod, Mr. Sachin Sampat Mulik, Mr. Vishal Ragho Chawan, Mr. Kailas Daulat Gavari, Mr. Pravin Tanaji Chawan, Mr. Kiran Shankar Ganjave, Mr. Anil Malhari Bhoir and Mr. Mohan Bhiku Erande are entitled for permanency and all benefits of permanent employees from the date 16.01.2013.

3) Two Lifeguards namely Amit Koli and Sudam Pawar are entitled for reinstatement/re-appointment from 28.02.2013 with continuity of service from their initial appointment alongwith permanency from 16.01.2013 with other consequential relief without any back wages.”

2 The Reference in question arose out of the industrial dispute raised by the Union known as the Municipal Mazdoor Union in respect of Lifeguards who were appointed as such on the various beaches in Mumbai. The said Union had sought permanency for the 18 Lifeguards who were appointed by the Respondents. Amongst the said 18 Lifeguards was the Petitioner herein and one Amit Koli and Sudam Pawar. In so far as the Lifeguards covered by clause (2) of the operative part of the impugned order are concerned, admittedly their cases are based on different facts than the Petitioner and the said Amit Koli and Sudam Pawar. In so far as the said Amit Koli and Sudam Pawar are concerned, by the impugned Award the Learned Presiding Officer of the Industrial Tribunal has held that since they had completed 240 days of service they were entitled for permanency. The Petitioner has been denied the said relief probably on the ground that the Petitioner had not completed 240 days of completed service in a calender year. The MCGM seems to have put a condition that a Lifeguard could not be continued beyond the age of 30 years. It seems that the Lifeguards covered by clause (2) of the operative part have completed 30 years of age. In so far as the Award is

concerned, the MCGM had filed Writ Petition in this Court being Writ Petition No.9258 of 2016 challenging the same. A Learned Single Judge of this Court (S. C. Gupte, J) by order dated 08.08.2016 has granted interim relief restricted to the said Amit Koli and Sudam Pawar and thereby has stayed the direction as contained in clause (3) of the operative part of the order passed by the Learned Presiding Officer of the Industrial Tribunal, Mumbai. However in so far as the Lifeguards covered by clause (1) of the operative part are concerned, no interim reliefs have been granted to the MCGM. As indicated above, the relief has been rejected to the Petitioner above named on the ground that he has not completed 240 days of service in the preceding 12 calendar months. In cases where the Learned Presiding Officer had deemed it appropriate to grant a relief of permanency to the said Amit Koli and Sudam Pawar on the ground that they had completed 240 days of service the said relief has been stayed by this Court. Since the Petitioner has admittedly not completed 240 days of service, in my view, the impugned Award in so far as it rejects the relief to the Petitioner cannot be taken exception to. No case for interference is therefore made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]