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

**WRIT PETITION NO. 5277 OF 2000
WITH
WRIT PETITION NO. 5862 OF 2002**

Pune Mahanagar Palika Abhiyanta Sangh ...Petitioner in
both the
Petitions

Versus

Pune Municipal Corporation & Ors. ...Respondents
in both the
Petitions

Mr. R.B. Deshmukh, for the Petitioner in both Petitions.

Mr. A.I. Patel, AGP for Respondent No.13 in WP No. 5277 of
2000 and for Respondent No.3 in WP No. 5862 of
2002.

Mr. A.P. Kulkarni, for Respondents Nos. 1 to 10 in WP No.
5277 of 2000 & for Respondents Nos. 1 & 2 in WP
No.5862 of 2000.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.
DATED: 10th August 2017**

ORAL JUDGMENT (Per A.S. Oka, J.)

1. Both the Petitions have been filed by the Petitioner
which is a registered Trade Union duly registered under the
provisions of Trade Union Act, 1926. Trade Unions are of

Engineers working on the establishment of the Municipal Corporation of the City of Pune.

2. The main grievance made by the Petitioner in Writ Petition No. 5277 of 2000 is as regards the order of appointment dated 17th August 2000 issued by the Municipal Commissioner appointing five in-service officers to posts mentioned in the said order for a period of six months. The said order records that, the appointments of the persons named therein shall be temporary appointments for the period of six months. The grievance in this Petition under Article 226 of the Constitution of India is that it is not open for the Municipal Commissioner to make temporary appointments by invoking sub section 3 of Section 53 of the Maharashtra Municipal Corporations Act, 1949 (**“for short the said Act”**) when the posts are not sanctioned on the establishment of the Municipal Corporation.

3. In Writ Petition No. 5862 of 2002, similar grievance has been made in respect of appointments made by the Municipal Corporation by invoking the same provision of the said Act on

the temporary basis for a period of six months.

4. In Writ Petition No. 5277 of 2002, the then Municipal Commissioner of the said Municipal Corporation has filed a reply stating that the appointments have been made by him on the adhoc and temporary basis for a period of six months. He has stated that the said appointments can be renewed for the period of six months by the Commissioner only with the previous sanction of the Standing Committee. In paragraph 5 of the Affidavit, he has stated that by the year 1997, the area covered by the said Municipal Corporation was increased from 146 square meters to 430 square meters and therefore, for meeting the various challenges the adhoc appointments have been made. It is stated that the adhoc appointments have been made on the basis of recommendations of the Departmental Promotion Committee.

5. In Writ Petition No. 5862 of 2002, a reply has been filed by the Municipal Corporation of one Mr. Pradeep Katkar, Deputy Municipal Commissioner raising the same contentions which are raised in Writ Petition No. 5277 of

2000. In paragraph 12 it is stated that appointments of several persons have been cancelled.

6. Thus, in both Petitions, substantive challenge is to be orders of appointments made in the year 2001 and 2002 by the Municipal Commissioner by exercising powers under sub section 2 of the Section 53 of the said Act. The said appointments have been admittedly made on temporary and adhoc basis for a period of six months.

7. Therefore, with the passage of time, the challenge in these two Petitions of 2002 may not have survive. If according to the case of the Petitioner, the Municipal Commissioner is still taking recourse to sub Section 3 of Section 53 of the said Act by making adhoc appointments to the posts which have not been sanctioned, the Petitioner can always file a fresh Petition for appropriate reliefs.

8. Subject to the above observations, the Petitions are disposed of. We make it clear that we have made no adjudication on the validity of the temporary appointments

made in year 2001 and 2002, which are subject matter of challenge in this Petition.

9. Rule is accordingly discharged with no order as to costs.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)