IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10151 OF 2013

Deepak Ganesh Muthe	}	**Petitioner**
versus		
The Commissioner,	}	
Greater Bombay Municipal	}	
Corporation and Ors.	}	**Respondent**

Mr. Shriniwas Sathye i/b. Mr. Yogesh Dabke for the petitioner.

Mr. S. S. Pakle with Mr. Oorja Dhond for the Municipal Corporation.

CORAM :- S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATED :- NOVEMBER 15, 2017

P.C. :-

1. We have heard both sides.

2. The petitioner was seeking a promotional post. According to the petitioner, at an appropriate exercise, the promotional post was indeed offered to him. He was selected and to be promoted. However, when he was working in the Administrative Officer's (Education) branch of the Municipal Corporation of Greater Mumbai, that officer did not relieve him to join the promotional post. Since he was not relieved in time, he lost his promotional avenue or opportunity. Later on, he has been seeking permission to join to the post, but the Corporation is now saying that there is

no need of an Inspector or a promotional post in the Tax Recovery Department or in the Department of Tax Assessment and Collection.

3. On such a petition, an affidavit in reply is filed. The deponent understands the grievance of the petitioner correctly. The petitioner was not relieved on time and that is why his name was deleted by the Assessment Department from the promoted post. Later on, it was discovered that in the department (Tax Department), there is no regular work nor there is any requirement of the post of Inspector. Some ad-hoc arrangements have been made. In these circumstances, it is urged that no useful purpose would be served by relieving the petitioner now and considering the request to allow him even at this stage to join that department.

4. Mr. Pakle, on instructions, states that the requirement of Inspectors has gone down considerably, particularly after abolition of the Octroi Tax and introduction of the Goods and Service Tax (GST).

5. We, therefore, do not deem it fit and proper to grant any relief with regard to the above to the petitioner as the issue has become entirely academic and infructuous. However, the

petitioner's advocate says that for no fault of the petitioner, he was denied promotion. He was duly promoted. If he was relieved in time, he would have enjoyed the promotional post. It is entirely the fault of the Municipal Corporation, which results in depriving him of the fruits of the promotion. Hence, he prays for the alternate relief claimed by the petitioner, namely, to grant him benefits of a scheme, namely, Assured Career Progression Scheme or the like, wherein, if there are no promotional avenues available, then, additional increments or monetary benefits equivalent to the promotional post can be extended. The learned counsel appearing for the petitioner submits that the mandate of Articles 14 and 16 of the Constitution of India is flouted and he should not be stagnating and for all times to come. Absence of promotional avenues, therefore, defeats the constitutional mandate.

6. In the light of this alternate submission, if the petitioner makes a representation or seek such benefits and on the above lines commensurate to the above scheme, then, the Municipal Corporation may consider the representation of the petitioner in accordance with the scheme and grant him requisite benefits. The request be considered as expeditiously as possible and within a period of three months from the date of receipt of the representation or request in writing.

7. With the aforesaid directions, the writ petition is disposed of.

(SMT. BHARATI H. DANGRE, J.) **(S.C.DHARMADHIKARI, J.)**