

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 55 OF 2012

Shaligram Harchand Patil

Petitioner.

Versus

Jalgaon Municipal Corporation and anr.

Respondents.

Mrs. A.S. Rasal, Advocate for the petitioner.

Mr. P.R. Patil, Advocate for respondent Nos.1 and 2.

CORAM : **T.V. NALAWADE &
SUNIL K. KOTWAL,JJ.**

Dated : 09.01.2018.

ORDER :-

1. The petition is filed to challenge the order made by the respondents on 31.08.2009 on the representation made by the petitioner to them. The petitioner was an employee of the respondents and it is the grievance of the petitioner that when he was senior in the Seniority List, the person who was junior to him, was given promotion to the post of Revision Officer and due to that he is not getting the pension on the basis of the pay of the said post.

2. Both sides are heard.

3. The submissions made show that in the past when the petitioner had come to this Court by filing similar proceeding, a direction was given by this Court to the respondents to give proper hearing to the petitioner and then take decision on the representation. The order under challenge shows that written submissions were filed by the petitioner and he had submitted that written submissions may be treated as the submissions on the representation and he had requested for deciding the representation. Accordingly the submissions were considered and the representation is decided by the respondents. The representation is rejected.

4. The reasoning given for the order can be found in the order and it shows that the person who got promotion namely Mr. G.P. Joshi was not only having the better educational qualification, but he was having the record of confidential reports, which was better than the present petitioner and due to that Mr. Joshi got promotion. Some reasons are given with

regard to the Seniority List that was prepared prior to taking the decision of promotion and it is observed that the Seniority List was not confirmed after taking objections of the concerned employees and the reason appears to be the better performance and eligibility of Mr. Joshi for getting that post. Alongwith reply affidavit, particulars of service record of the two employees are given and they show that from the year 1955 at least on three occasions the present petitioner was suspended by the employer. He ultimately retired in the year 1993 and last time he was suspended in the month of July 1989.

5. An employee does not get the promotion as a matter of right. Only on the satisfaction of the employer about the performance of the employee in the service, he can get the promotional post. In view of this circumstance and the service record, this Court holds that it is not possible to interfere in the matter.

6. Learned Counsel for the petitioner submitted that she had sent the reply affidavit to the petitioner and the papers

were sent to him for getting proper and more instructions, but the petitioner is not in touch with her.

7. In view of the aforesaid circumstances, this Court holds that no interference is possible in the decision taken by the employer and the petition is disposed of.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE