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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2928 OF 2016

Smt. Sheila Chrisitian	... Petitioner
Vs.	
Municipal Corporation of Greater Mumbai and Ors.	... Respondents

Ms. Vidula S. Patil for the Petitioner.
Mr. Sagar Patil for the Respondent – BMC.
Mr. Himanshu Takke, AGP for the Respondent – State.
Mr. Burhan V. Bukhari for the Respondent No.3.
Mr. Suraj D. Almeida for the Respondent No.4.

CORAM : A.S.OKA AND
 SANDEEP K. SHINDE, JJ.

DATE : 14th DECEMBER 2018.

P.C. :

1 Heard the learned counsel appearing for the petitioner. The petitioner was appointed as a Staff Nurse in the employment of the first respondent – Municipal Corporation. The petitioner was eventually promoted as Matron from 1st August 2013. The petitioner has stated in the petition that she was given the charge of the post of the Principal of Nursing School at Dr. R.N. Cooper Hospital of the first respondent on officiating basis. The present petition is filed in October 2017. It is not in dispute that the petitioner has superannuated in September 2017.

2 The first challenge in this petition is to the appointments of the third respondent to the post of Sister Tutor, Matron and Superintendent of Nursing Services. The said three appointments of the

said respondent were made on 7th November 1986, 5th November 1998 and 24th January 2013 respectively. The contention is that the third respondent was appointed to the said posts though she did not fulfill the eligibility criteria. The petitioner is, therefore, challenging appointment of the third respondent made in the year 1986, 1998 and 2013 in the present petition filed in the year 2017. The third respondent has superannuated in April 2018. Further prayer is to grant the petitioner deemed dates of promotion to the post of Matron from 5th November 1998 and the Superintendent from 24th January 2013. The last prayer is for appointing the petitioner to the post of Principal from April 2010 and for quashing promotion of the fourth respondent. Perusal of the petition shows that there is absolutely no explanation in the petition for such a gross delay. Admittedly, the petitioner has filed this petition after her superannuation. The learned counsel appearing for the petitioner submits that the petitioner was repeatedly making correspondence.

3 Assuming that the petitioner made repeated correspondence, that is no ground to interfere with the orders of appointment of the third respondent made in the years 1986, 1998 and 2013 or to grant deemed dates from the year 1998 and 2013 in this petition filed in the year 2017. Writ jurisdiction under Article 226 of the Constitution of India is always discretionary. Considering the gross unexplained delay, it is not the case where the petitioner should be allowed to invoke writ jurisdiction under Article 226 of the Constitution of India. Writ Petition is rejected.

(SANDEEP K. SHINDE, J.)

(A.S.OKA, J.)