

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

27. WRIT PETITION No. 7584 of 2019

Bharatsing Rameshsing Sarvan	... <u>Petitioner</u>
<u>VERSUS</u>	
Ahmednagar Municipal Corporation, Ahmednagar	... <u>Respondent</u>

Mr. P.V. Barde, Advocate for petitioner

CORAM : RAVINDRA V. GHUGE, J.

DATE : 24th June, 2019

PER COURT:

1. The petitioner/original complainant before the Industrial Court in Complaint (ULP) No. 34/2018 is aggrieved by the interlocutory order dated 18th April, 2019, by which, his application Exh. U-2 seeking an interim relief by way of promotion, has been rejected.

2. The learned Advocate for the petitioner has strenuously criticised the impugned order. Contention is that he joined as a Sweeper with the Municipal Council on 1st August, 2005, in the Sanitary Department. He acquired the qualification of Diploma of Sanitary Inspector and also completed his graduation in the Commerce Faculty. He also completed the MS-

CIT course and acquired Diploma in Computer Management. He has passed his Marathi and English typing. The Corporation has framed the Promotion Rules as well as Staffing Pattern as per the Award of the Industrial Tribunal in Reference IT. No. 51/1979.

3. The learned Counsel pointed out a list of 11 employees, who, as per the written statement filed by the Corporation, are eligible to be promoted as a Sanitary Inspector. The petitioner is shown at serial No. 10. Serial Nos. 1 to 9 are shown to be ahead of the petitioner. It is vehemently contended that a person qualifies for promotion to the position of a Sanitary Inspector after he has secured requisite qualification. Serial Nos. 1 to 9 have acquired such qualification after the petitioner became qualified.

4. It is settled law that unless superseded, promotion cannot be granted by an order of the Court. A person can be recommended by the Court for being considered for promotion. Whether the nine persons shown to be senior to the petitioner have qualified to acquire the promotion of a Sanitary Inspector after the petitioner was qualified, is a subject matter of the complaint.

5. In view of the above, this petition is disposed off. However, it would be appropriate to observe that any promotion

granted by the respondent-Corporation to the position of a Sanitary Inspector, would be subject to the result of the pending complaint and the Corporation would intimate such candidates about the pendency of the complaint, prior to granting them promotion.

**(RAVINDRA V. GHUGE)
JUDGE**

Madkar