

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1238 OF 2022

Sunil Rama Chaudhari & Anr.

...Petitioners

V/s.

Municipal Corporation of
Greater Mumbai & Ors.

...Respondents

Ms. Renuka Kavediya with Ms. Deepali Bagla i/by Renuka Kavediya for the petitioners.

Ms. Rupali Adhate for respondent nos. 1 and 2/MCGM.

**CORAM: DIPANKAR DATTA, CJ &
V. G. BISHT, J.**

DATE: APRIL 26, 2022

P.C.:

1. This writ petition, instituted on 14th February 2022, is at the instance of two (2) License Inspectors working with the respondent no. 1/Municipal Corporation of Greater Mumbai. Prayer clauses (a) to (c) of the writ petition would reveal that the petitioners seek quashing of office order dated 30th May 2018 (Exhibit "I/3") *qua* the first petitioner and office order dated 7th October 2017 (Exhibit "J") *qua* the second petitioner.

2. It is revealed from Exhibit "I/3" that the first petitioner was appointed on temporary basis vide office order dated 26th December 2011 on the post of Senior Inspector (License)(Qualified)(SC) owing to the post of "SC" falling vacant due to promotion of one Mr. S. B. Bande, Senior

Inspector (License). Since the appointment of the first petitioner was on temporary basis, the order records that he could not claim seniority. The order further records that vide circular dated 25th August 2008, the promotion was to continue for eleven (11) months or till the senior officer/employee submits the caste verification certificate, whichever occurs first, but if during such period of eleven (11) months the senior officer/employee does not submit the caste validity certificate, the promotion shall be continued giving one (1) day break. As per circular dated 25th August 2008, the first petitioner was given break of one day on 22nd June 2017 and again re-appointed on temporary basis on the post of Senior Inspector (License) from 23rd **July** 2017 (sic) (pg. 65 of the writ petition). Subsequently, with the approval of the Deputy Commissioner vide order dated 18th May 2018, the first petitioner was given one day technical break on 21st May 2018 and he was demoted to his earlier post of Inspector (Licensing). Once again, the first petitioner from 22nd May 2018 was given the post of Senior Inspector (Licensing) in the pay-scale of Rs. 9300-34800+ GRP plus usual allowances. The re-appointment of the first petitioner was for eleven (11) months. It is this order which is subjected to challenge by the first petitioner in this writ petition.

3. The second petitioner challenges an office order dated 7th October 2017. It is pleaded in paragraph 15 of the writ petition that the second petitioner received the order on 7th October 2017 itself. The order records that the second petitioner was appointed on temporary basis as per circular dated 18th June 1993 and it was mandatory to give a technical

break after a period of every six (6) months to every employee. The second petitioner was given a technical break on 6th September 2017, demoted to his earlier post of Inspector (License) and was re-appointed with effect from 7th September 2017 for a period of six (6) months. The second petitioner thus challenges the order dated 7th October 2017 in this writ petition.

4. Ms. Kavediya, learned advocate appearing for the petitioners has prayed for time to produce additional documents. We have no hesitation to decline such a prayer for the reason that follows.

5. Although the two (2) petitioners have independent causes of action, they have joined in a single writ petition. Without being too technical, we have looked into the matter.

6. As noted above, challenge in this writ petition has been laid more than four years after the orders dated 30th May 2018 (Exhibit "I/3") and 7th October 2017 (Exhibit "J") were issued and an order has been sought for from this Court that the same be declared illegal, and null and void.

7. We have read the writ petition in between the lines and do not find any explanation worthy of consideration seeking to explain the belated approach. We also unsuccessfully called upon Ms. Kavediya to show us any paragraph from the writ petition wherein the petitioners have explained the delay in approaching the Court. On the ground of unexplained delay alone, this writ petition is liable to be dismissed.

8. In view of such circumstances, we refuse to exercise discretionary jurisdiction. The writ petition stands dismissed. No costs.

(V. G. BISHT, J.)

(CHIEF JUSTICE)

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