

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8976 OF 2024

Vijaya Kiran Sankhe
V/S

....Petitioner

Municipal Corporation of Greater Mumbai & Ors.

....Respondents

Ms. Vidula Patil a/w Mr. Prakash Devdas i/b M/s. P.V. Legal Solutions *for the Petitioners.*

Mr. B.D. Birajdar a/w Mr. Santosh Parad *for Respondent/MCGM.*

Mrs. Nisha Pingale, Administrative Officer, Sion Hospital, present in Court.

CORAM: SANDEEP V. MARNE, J.
DATE : 16 JULY 2024.

P.C.:

1 The challenge in the present Petition is to the order dated 7 February 2024 passed by Member, Industrial Court, Mumbai, rejecting the applications filed by the Petitioner at Exhibit-U2 and U10 seeking interim relief. The Petitioner has filed Complaint (ULP) No.169 of 2023 seeking her promotion to the post of Junior Assistant Matron by rectifying the seniority list of Sister In-charge by restoring her name in the said seniority list from the date of her appointment as Sister In-charge. It appears that the Petitioner was earlier offered promotion to the post of Junior Assistant Matron in the year 2013 which she was not in a position to accept. She was promoted to another post of Operation Theatre Superintendent in the year 2015. It appears that in the

year 2014 the Municipal Corporation has altered the method of filling of the post of Junior Assistant Matron and as per the changed eligibility criteria, Operation Theatre Superintendent is not eligible for being promoted as Junior Assistant Matron and only Sister In-charge is the eligible post for promotion to the post of Junior Assistant Matron.

2 In my view all these issues need to be decided at the time of final decision of the Complaint. The Petitioner cannot insist that till her Complaint is finally decided no other employee should be promoted as Junior Assistant Matron . In case the Petitioner succeeds in her Complaint, she can be granted deemed date of promotion/retrospective promotion from the date on the same was due to her. However the machinery of the Municipal Corporation cannot be brought to stand still by grant of blanket stay on effecting promotions merely because the Complaint filed by the Petitioner is pending.

3 It appears that by order dated 15 July 2024 the Respondent-Municipal Corporation has already promoted Smt. Rajani Vikram on the post of Junior Assistant Matron. The Petitioner would be at liberty to seek impleadment of Smt. Rajani Vikram as party Respondent to her Complaint. In the event Petitioner succeeds in her Complaint, the Industrial Court can consider grant of promotion to the post of Petitioner on the post of Junior Assistant Matron from the date of promotion of Smt.Rajani Vikram with consequential order of reversion of Smt. Rajani Vikram.

4 In that view of the matter, no interference is warranted in the impugned order passed by the Industrial Court. Writ Petition is accordingly **rejected**.

(SANDEEP V. MARNE, J.)

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