

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 12525 OF 2024

IN

WRIT PETITION NO. 1771 OF 2014

Municipal Corporation of Greater
Mumbai and Ors.

....Applicants

V/s.

Ashish Shashikant Chitre and Ors.

....Respondents

Mr. Anoop Patil *a/w Mr. Santosh Parad, for the Applicants - BMC.*

Mr. Rahul Fazelbhoy, *for the Respondent Nos. 1, 3 & 5.*

Mr. Mukund Manvadkar, *Dy. Security Officer, Security Department – BMC Respondent.*

CORAM : SANDEEP V. MARNE, J.

Date : 5 SEPTEMBER 2024.

P.C. :

1) This Interim Application is filed seeking extension of time by 8 weeks to consider the letters / representations and undertakings dated 23 August 2024 received from Respondent Nos. 1, 3 and 5 in the light of the Judgment and Order dated 26 July 2024 passed by this Court.

2) The operative portion of the order dated 26 July 2024 reads thus :-

19. Accordingly, Municipal Commissioner shall depute Respondent Nos. 1, 3 and 5 for training for the post of ASO within a period of four weeks from today and thereafter subject them to prescribed examination. If Respondent Nos. 1, 3 and 5 complete the training and clear the prescribed examination, they shall be considered as having been appointed on the post of ASO from the date of the order of the Industrial Court i.e. 21 December 2013 with all consequential benefits. It is however clarified that this Order is passed in the unique facts and circumstances of the case and shall not be treated as a precedent in any other case.

3) It appears that the Petitioner-Municipal Corporation initially was considering challenging the order dated 26 July 2024 before the Supreme Court, especially on account of direction by this Court for appointment of Respondent Nos. 1, 3 and 5 on the post of Assistant Security Officer w.e.f. 21 December 2013 with all consequential benefits.

4) It appears that after passing of order dated 26 July 2024 Respondent Nos. 1, 3 and 5 have submitted letters dated 23 August 2024 as well as undertakings dated 23 August 2024, under which they have expressed their readiness not to press the claim for arrears of salary and allowance from 21 December 2013.

5) Mr. Patil, the learned counsel appearing for Petitioner-Municipal Corporation, after taking instructions the municipal officer present in the Court, makes a statement that if Respondent Nos. 1, 3 and 5 stand by their undertakings not to claim arrears of salary and allowances from 21 December 2013, the Municipal Corporation shall not challenge the order dated 26 July 2024 and shall implement the same, except the direction for grant of back wages. He would pray for time of four

weeks to depute Respondent Nos. 1, 3 and 5 for necessary training for the post of Assistant Security Officer. Mr. Fazalbhoj the learned counsel appearing for Respondent Nos. 1, 3 and 5, after taking instructions from his clients, who are personally present in the Court, submits that Respondent Nos. 1, 3 and 5 stand by the contents of letters and undertakings dated 23 August 2023.

6) In the light of the agreement prevailing between the parties, paragraph No. 19 of the order dated 26 July 2024 shall stand modified to the extent that in the event of grant of appointment to Respondent Nos. 1, 3 and 5 on post of Assistant Security Officer w.e.f. 21 December 2013, they shall not be entitled to be paid difference in salary and allowances on the post of ASO from the date of their respective appointments. However, the date of 21 December 2013 shall be taken into consideration for all other purposes such as notional pay fixation, seniority, eligibility service for further promotions etc. Petitioner -Municipal Corporation is granted time of four weeks to depute the Respondent Nos. 1, 3 and 5 for training on the post of ASO.

7) With the above clarification, the Interim Application is disposed of.

[SANDEEP V. MARNE, J.]