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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8866 OF 2022

Bipin Baburao Sapte & Ors. ...Petitioners
Versus
Bhiwandi Nizampur City
Municipal Corporation & Ors. ...Respondents

Ms. Anita Bhaktwani, for Petitioners.

Mr. Narayan Bubna, with Pooja Malik and A. A. Achhra, for Respondent No.1.

Ms. Pooja M. Deshpande, AGP for Respondent-State.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

DATE: 18th AUGUST 2026

P.C.

1. The Petitioners seek to quash and set aside letter dated 24th October 2016 issued by Respondent No.5 to Respondent No.2 herein directing latter to act in aid of the report dated 27th March 2015 pertaining to the inquiry conducted in complaints made by one Shri Santosh Janu Chavan to the Lokayukta. The Petitioners also seek to set aside letter dated 13th October 2017 *vide* which the Petitioners' promotions to higher posts were canceled.

2. The Petitioners are stated to be employees of Respondent No.1-Bhiwandi Nizampur City Municipal Corporation, serving on different posts. Respondent No.2 is the Commissioner; Respondent No.3 is the Divisional Commissioner; Respondent No.4 is the Lokayukta; and Respondent No.5 is the Principal Secretary of the Urban Development Department of Respondent No.6- State of

Maharashtra.

3. The case of the Petitioners is that they were initially appointed as Class-III and Class-IV employees and were gradually promoted to higher posts. In 2011, they were granted further promotion subject to the approval of the Municipal Corporation. According to them, their promotions were approved and confirmed in the meeting dated 21st November 2011. It is claimed that these promotions were made as per the needs of the Corporation considering the vacancies that had arisen and availability of candidates. They received their individual promotion on 30th April 2013.

4. One Mr. Santosh Janu Chavan made various complaints with the Respondents pertaining to the promotions granted to the Petitioners and other employees, specifically naming two employees namely, Deepak Kadam and Shan Ali Hasan Ali. Since Respondent-Corporation failed to take cognizance, the said Mr. Chavan addressed his complaints to Respondent No.4-Lokayukta and Respondent No.5. Respondent No.5, in turn, directed an inquiry into the manner and mode of promotion of the Petitioners and others. The inquiry report was submitted on 23rd December 2014 justifying the promotions. Another inquiry was directed into the matter and the Additional Collector, Thane placed his report dated 27th March 2015 before Respondent No.5. This report indicated that the Petitioners' promotions were irregular and incorrect inasmuch as the promotions were made without following the rules in that regard and without holding any examinations necessary to consider such promotions. The report also stated that the Petitioners and others had not appeared for the examinations and neither were

they qualified to be appointed to such promoted posts. It is also held that the complaint made by Mr. Santosh Janu Chavan was justified.

5. Considering that the report revealed irregularities in promoting the Petitioners and others, the impugned letter dated 24th October 2016 was issued and was followed by the letter dated 13th October 2017 canceling the Petitioners' promotions. Aggrieved by the cancellations of their promotions, the Petitioners are before this Court for the reliefs as prayed.

6. Heard Ms. Anita Bhaktwani learned counsel for the Petitioners; Mr. Narayan Bubna representing Respondent No.1 and Ms. Pooja M. Deshpande, AGP representing the Respondent-State.

7. Ms. Bhaktwani submitted that Respondent No.2 failed to pass a reasoned order of cancellation of the Petitioners' promotions. She submitted that the cancellation was beyond the powers of Respondent No.2. Ms. Bhaktwani further contended that although Mr. Chavan had complained only against two promotees namely, Mr. Deepak Kadam and Shan Ali Hasan Ali, all the promotions were canceled. Even Mr. Chavan's credentials were not checked. Thus, Ms. Bhaktwani says that on the face of it, the impugned letter of cancellation of the promotions is nothing but victimization of the Petitioners. She finally submitted that some of the Petitioners are already retired and demoting them at this stage has caused prejudice to those who have retired. Hence, she prays that the Petition be allowed.

8. Mr. Bubna has pointed out contents of the inquiry report. He submits that the decision making process of the promotion exercise itself was arbitrary and done without following the relevant rules. Hence, he justified the cancellation of the

promotions and prayed for dismissal of the Petition.

9. It is a settled position of law that an employee does not have the vested right to be promoted nor does he possess a legitimate expectation to be promoted. The limited right that an employee can legitimately claim is for consideration of his candidature. In the present case, however, the Petitioners were promoted without following the proper procedure. The averments made in the Petition itself indicates that the Petitioners and others were promoted on a need based requirement and availability of the candidates. The service rules pertaining to promoting these Petitioners to various posts provides for conducting necessary examinations. The inquiry report indicates that no such examination was conducted. The Petitioners were neither qualified for the promotee posts nor did they have necessary experience required for the said posts. There were other candidates qualified and available to be considered for promotions, but for extraneous reasons, those candidates were ignored and the Petitioners and others were promoted.

10. All these irregularities were highlighted in the inquiry report. It is on the basis of this inquiry report that the promotions are canceled by Respondent No. 2. There is no glaring fallacy discernible from the impugned order before us.

11. Considering the factual matrix, we are unable to accept the submissions made on behalf of the Petitioners. It is clear that erroneous promotions were given contrary to the service rules and the eligibility requirements and consequently, such employees including the Petitioners have not been allowed to enjoy the fruits of such improper promotions. The Petitioners cannot base their claims for promotions contrary to statutory service rules. The infringement of statutory service rules

cannot be permitted to be perpetuated.

12. In view of the aforesaid, we are unable to agree with the submissions made on behalf of the Petitioners. Moreover, the Petitioners have not even specified the details of the Petitioners, who retired prior to the passing of the impugned order. In any case, there is no prejudice caused to the retirees on account of the impugned order. Hence, we find no infirmity in the decision making process of the impugned order. The Writ Petition is dismissed. No costs.

(DR. NEELA GOKHALE, J) **(G. S. KULKARNI, J.)**