

Arvind Anand Phadke Vs Bhiwandi Nizampur Municipal Council and Others

Court: Bombay High Court

Date of Decision: June 12, 1997

Hon'ble Judges: B.B. Vagyan, J; A.P. Shah, J

Bench: Division Bench

Advocate: Mr. Suresh Rajeshwar, for the Appellant; Mr. S.M. Shetty, for the Respondent

Judgement

Vagyan, J.

Heard the Advocates for the parties.

The Petitioner has challenged his demotion order dated 18th June, 1996 passed by the President of Bhiwandi Nizampur Municipal Council. The

initial appointment of the petitioner was as an Assistant Sanitary Inspector and thereafter he was promoted to the post of Sanitary Inspector. After

acquiring the requisite qualification for the post of Food Inspector, he was promoted and appointed as Food Inspector on 12th June, 1986. In

pursuance of the said promotion order dated 12th June, 1986, the Petitioner handed over the charge of Sanitary Inspector and assumed the new

assignment on 13th June 1986. Accordingly, he made report to the Chief Officer. Surprisingly, the Respondent No. 1 by his order dated 18th

June, 1986 cancelled the promotion order of the Petitioner and he has been demoted to his earlier post as Sanitary Inspector.

2. The Petitioner, being dissatisfied with the order dated 18th June, 1986 passed by Respondent No. 1, has come up in this Writ Petition.

3. The short point that arises for our consideration in this Petition is whether the order of cancellation of promotion dated 18th June, 1986 is legal

and valid. From the face of order, it is seen that no reasons are assigned by Respondent No. 1 for cancellation of the order of promotion of the

Petitioner. The order therefore Suffers on this count. It is to be noted that the Petitioner was the senior most person and was in fact deserving for

promotion as Food Inspector. Taking into consideration this aspect of the matter, initially, he was rightly promoted by the order dated 12th June,

1986. There was absolutely no reason for cancellation of the promotion order of the Petitioner. Moreover, no reasonable opportunity of hearing

was given to the Petitioner. On this count also, the order of cancellation suffers from infirmity. Under the circumstances, the order of cancellation

dated 18th June, 1986 does not sustain in law.

4. In the result, petition succeeds. We hereby quash and set aside the order dated 18th June, 1986 passed by Respondent No. 1 cancelling the

promotion of the petitioner. The Petitioner is therefore entitled to the declaration as sought in relief clause (d-1) of the petition. However, we make

it clear that the Petitioner is entitled to the accrued benefits from the date of resumption of his new post as Food Inspector i.e. 13th June, 1986.

There is no logic behind the claim of the Petitioner for getting accrued benefits from December, 1980 onwards. However, there shall be no order

as to costs.