

(1997) 06 BOM CK 0053**Bombay High Court****Case No:** Writ Petition No. 2490 of 1986

Arvind Anand Phadke

APPELLANT

Vs

Bhiwandi Nizampur Municipal
Council and Others

RESPONDENT

Date of Decision: June 12, 1997**Hon'ble Judges:** B.B. Vagyani, J; A.P. Shah, J**Bench:** Division Bench**Advocate:** Mr. Suresh Rajeshwar, for the Appellant; Mr. S.M. Shetty, for the Respondent**Judgement**

Vagyani, 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.