IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 73 OF 2026
IN WP/10268/2025
YOGESH SUNDAR RATHOD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS ADDITIONAL CHIEF SECRETARY AND OTHERS

REVIEW APPLICATION (CIVIL) NO. 74 OF 2026
IN WP/10279/2025
YOGESH SUNDAR RATHOD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

REVIEW APPLICATION (CIVIL) NO. 75 OF 2026
IN WP/10274/2025
YOGESH SUNDAR RATHOD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.Jiwan J. Patil, Advocate for the applicants.
Mr.P.K. Lakhotiya, AGP for respondent No.1 [RA 73 & 74 of 2026]
Mr.S.B. Pulkundwar, AGP for respondent No.1 [RA 75/2026]
Mr.S.S. Wagh, Advocate for respondent Nos. 3 to 14 in WP.
Mr.Yashodeep Deshmukh h/f.Mr.A.D.Kawre, Advocate for the respondents [through VC].

CORAM	:	**KISHORE C. SANT & ABASAHEB D. SHINDE, JJ.**
RESERVED ON	:	**04.09.2026**
PRONOUNCED ON	:	**12.10.2026**

ORDER : [PER : KISHOR C. SANT,J.] :-

01. All these review applications are arising out of common judgment and order dated 02.12.2025 passed in respective writ petitions. By way of the said common judgment and order, this Court disposed off Writ Petition Nos. 10268 of 2025, 10279 of 2026, 10274 of 2025, 12842 of 2025 and 12583 of 2025. Out of the said petitions, only three review applications have been filed seeking review of the said judgment and order.

02. Heard learned Advocates for the parties.

03. This Court had allowed the writ petitions, review of which is sought by way of the present review applications. The Writ Petitions were filed by private respondents. By allowing the Writ Petitions, this Court set aside the judgment and order dated 10.07.2024 passed by the Maharashtra Administrative Tribunal [for short "MAT"], in Original Application Nos.1254 of 2024 and 1304 of 2024. Final gradation/seniority list of the petitioners and private respondents also came to be quashed and set aside. One Writ Petition No. 12583 of 2025 was filed even by the State Government that also came to be allowed. Thus, all the Writ

Petitions came to be allowed.

04. The facts in short are that Government of Maharashtra issued advertisement dated 15.02.2016, for filling up 1256 posts of Junior Engineer (Civil) (Group B) (Non-Gazetted) on the establishment of Water Conservation Department. All the petitioners participated in the recruitment process. However, later-on the vacancies were reduced to 1202 posts. Pursuant to the recruitment process, the select list was published showing 1202 candidates, including the waiting list. The appointment orders were issued on 25.01.2017 to the candidates. Only 1020 candidates joined out of 1202 candidates and 182 posts remained vacant. The Government thereafter issued appointment orders in favour of 142 candidates from the waiting list on 23.11.2017. 25 more appointment orders were issued on 24.01.2018.

05. In due course, a provisional gradation/seniority list came to be prepared and was published vide circular dated 20.09.2023. On hearing the objections, a final list was published on 16.04.2024. Respondent Nos. 3 to 18 in Writ Petition No. 10268 of 2025 challenged the said list in the MAT by filing two Original Applications bearing Nos. 1304 of 2024 and 1254 of 2024. The MAT allowed both the applications.

Thus, the petitioners/present private respondents were before this Court.

06. This Court allowed the Writ Petitions setting aside judgment and order of the MAT and thus the applicants have filed these review applications on various grounds. Main ground raised is that this Court failed to appreciate that the Authorities were under obligation before forwarding names of the candidates to verify the documents of the meritorious candidates and failed to satisfy the documents and forwarded the list of meritorious candidates. This caused irreparable loss. Had the said exercise been undertaken, the petitioners would have been selected at the very first instance, however, since this was not done, the petitioners were appointed after period of eight months than the first select list candidates. First batch of candidates in the select list though joined the post earlier, they could not have been considered over and above the persons who were meritorious but joined at later point of time for verification of the documents. This Court committed error in considering that out of 180 posts, only 61 candidates did not join and rest of the candidates joined as were not eligible or could not give document for verification. Had the Selection Committee properly followed the process of selection, 121 candidates would have been selected at the very initial stage and in that case they would have been

above in the seniority list. Further it is contended that though notional seniority is permissible in view of law laid down in **Pawan Pratap Singh & Ors. Vs. Reevan Singh & Ors., (2011) 3 SCC 267**, same is not considered by this Court. Wait listed candidates are also eligible and qualified candidates. Though they are placed below list of selected candidates, they are not considered in the seniority properly. The ground raised by the applicants in the petitions were not properly considered. Further it is submitted that the irregularity by the selection committee and delay in appointment of the applicants cannot be attributed to the applicants. Lastly, it is contended that the learned Member of the MAT and before this Court, the respondents – Authorities only placed reliance on merit list, which is wrongly taken as selection list by the respondents-Authorities. Ultimately, it is submitted that considering clause No. 14(B) of the advertisement, the seniority list must be prepared in order of marks/ranking and not as per the date of appointment and joining.

07. Considering the above, a case of the applicants is that though they were appointed after persons from first selection list joined services, they could not have been termed as junior in the seniority list merely on the basis of date of appointment. It is case that the seniority list must be counted on the basis of merit i.e. marks obtained by the candidate,

even if such candidate is in the wait list and is given appointment at later point of time. The case thus revolves around MCSR (Regulation of Seniority) Rules, 1982 [for short "the Rules"] and the effect of 2021 Rules, which were introduced in the supersession of 1982 Rules.

08. While deciding the Writ Petitions, this Court considered the submissions of the petitioners in the Writ Petitions. This Court considered judgment in the case of **Pawan Pratap Singh [supra]**. This Court considered clause 14(B) of the advertisement, general principles of seniority from 1982 Rules and also clause No.3 in GR dated 28 May, 2018. Rule 4 of the 1982 Rules provides that the seniority of Government Service in any post, cadre or service shall ordinarily be determined on the length of continuous service. Sub-rule (2) of Rule 4 provides that the inter-se seniority of the direct recruits selected in one batch for appointment to any post, cadre or service, shall be determined according to their ranks of preference arranged by the Commission. Selection Board or in the case of recruitment by nomination directly made by the Competent Authority, if the appointment is taken up by the person recruited within 30 days from the date of issue of the order of appointment or within such extended time as the Competent Authority may in its discretion allow. This Court observed that the seniority of the

Government servants shall ordinarily be determined on the length of his continuous service.

09. In the present case, it is admitted position that the present applicants joined at least eight months after joining candidates who were issued appointment orders. This Court further considered clause 14(B), which provides that the merit order of the selected and appointed candidates in the examination shall determine their order of seniority in service. Where appointment orders were issued on two different dates, this Court considered whether those can be treated as persons from one batch. It was held that when the candidate from select list joined post, the applicants were not in service as the applicants joined at later point. The appointment orders were also issued after the candidates who were given appointments had joined. The candidates who joined pursuant to first appointment order were therefore considered senior.

10. The Court further mainly observed that the applicants and similarly situated persons were appointed only because some of the candidates in the select list did not join or were found to be without requisite documents. The appointments of the candidates in the waiting list were considered to be fortuitous. It was thus taken that the batch of

the candidates from the selection list only constitute one batch. The present applicants fall in separate batch, as they were given appointment order after some period.

11. So far as 2021 Rules are concerned, this Court finds that the seniority list was prepared on the basis of joining of the persons in the year 2018 i.e. much prior to 2021. It is thus Rules of 1982 would govern the seniority of the persons who joined before 2021. The submission that by 2021 Rules, the earlier rules were superseded thus cannot be considered.

12. The respondents relied upon judgment in the case of **S. Madhusudhan Reddy Vs. V. Narayana Reddy & Ors., (2022) 17 SCC 255**, on the scope of review application. The Hon'ble Apex Court in para No.26 observed as under :-

> 26. After discussing a series of decisions on review jurisdiction in Kamlesh Verma v. Mayawati and Others, this Court observed that review proceedings have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. As long as the point sought to be raised in the review application has already been dealt with and answered, parties are not entitled to challenge the impugned judgment only because an alternative view is possible. The principles for exercising review jurisdiction were succinctly summarized in the captioned case as below :
>
> > "20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" has been interpreted in Chajju Ram vs. Neki, and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulose Athanasius & Ors. to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors.

20.2. When the review will not be maintainable: -

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

13. The Hon'ble Apex Court in the case of ***Malleeswari Vs. K.***

Suguna and Anr. [2025 INSC 1080] in Civil Application arising out of SLP (C) No. 12787 of 2025, has laid down the parameters for entertaining the review application. Paragraph No.15 & 17 of the said judgment reads as under:-

> "**15**. It is axiomatic that the right of appeal cannot be assumed unless expressly conferred by the statute or the rules having the force of a statute. The review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. The power of review is different from appellate power and is subject to the following limitations to maintain the finality of judicial decisions:
>
> **15.1.** The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC. [*Meera Bhanja v. Nirmala Kumari Choudhury, (1995) 1 SCC 170*].
>
> **15.2.** Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court.[*Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389*].
>
> **15.3.** In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be an appeal in disguise. [*Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715*].
>
> **15.4.** The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power. [*Lily Thomas v. Union of India, (2000) 6 SCC 224*].
>
> **15.5.** The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or

pronounced, it should not be altered. [*Inderchand Jain v. Motilal, (2009) 14 SCC 663] Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors. [Shivdev Singh v. State of Punjab, AIR (1963) SC 1909*].

xxx

"**17**. Having noticed the distinction between the power of review and appellate power, we restate the power and scope of review jurisdiction. Review grounds are summed up as follows:

17.1. The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.

17.2. Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record.8 Such an error is a patent error and not a mere wrong decision.9 An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. [*Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, AIR (1960) SC 137*].

17.3. Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories. [*Chhajju Ram v. Neki, 1922 SCC OnLine PC 11 and approved in Moran Mar Basselios Catholicos v. Mar Poulose Athanasius, AIR (1954) SC 526*]."

14. Considering all the above, this Court finds that no case is made out showing that there is any error apparent on the face of record. This Court has considered the rules, advertisement and on the basis of that this Court delivered the judgment. If at all there is still any grievance, the same cannot be entertained by this Court in the review

jurisdiction. No error apparent on the face of record is shown. This Court on considering the above, finds that no case is made out to entertain these review applications. The Review Applications stand dismissed.

[ABASAHEB D. SHINDE,J.] **[KISHORE C. SANT, J.]**

snk/2026/Sep26/ra73.26