

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4708 OF 2010

Executive Engineer Operation and Maintenance Division & Anr. V/S Madhukar Yashwant Mayekar	Petitioners Respondent
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**WITH
CIVIL APPLICATION NO.1801 OF 2018
IN
WRIT PETITION NO.4708 OF 2010**

Madhukar Yashwant Mayekar IN THE MATTER OF: Executive Engineer Operation and Maintenance Division & Anr. V/S Madhukar Yashwant Mayekar	Applicant Petitioners Respondent
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**WITH
WRIT PETITION NO.4707 OF 2010**

Executive Engineer Operation and Maintenance Division & Anr. V/S Sadanand Shankar Karlekar	Petitioners Respondent
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**WITH
WRIT PETITION NO.4709 OF 2010**

Superintendent Engineer Maharashtra State Electricity Board & Anr. V/S Jagannath Keshav Gandhi	Petitioners Respondent
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**WITH
CIVIL APPLICATION NO.1800 OF 2018
IN
WRIT PETITION NO.4709 OF 2010**

Jagannath Keshav Gandhi	Applicant
IN THE MATTER OF	
Executive Engineer	
Operation & Maintenance Division & Anr.	Petitioners
V/S	
Jagannath Keshav Gandhi	Respondent

Ms. A.R.S. Baxi *for the Petitioners.*

Mr. Amit Singh a/w Mr. Kabeer Pansare a/w Ms. Anasamah Sayed i/b
M/s. Abhay Nevagi & Associates *for Respondent.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 25 JULY 2024.**

P.C.:

1 The challenge in the present Petitions is to the orders passed by the Industrial Court, Kolhapur, on 12 May 2010 in Complaint (ULP) Nos.33 of 1999, 184 of 1999 and 40 of 2005 filed by Respondents challenging the action of recovery initiated by the Petitioners consequent to corrective action taken by them in respect of grant of benefit of G.O. 74 on the post of Line Foreman and changing the date of grant of such benefit from 1 April 1980 to 1997. The Industrial Court has allowed the Complaints filed by Respondent-employees and has directed Petitioners not to recover the amount arising out of such corrective action.

2 I have heard Ms. Baxi, the learned counsel appearing for Petitioners and Mr. Singh, the learned counsel appearing for Respondents-employees.

3 After having considered the submissions canvassed by the learned counsel appearing for parties, it appears that a sort of financial upgradation was admissible in Petitioners-Organization under GO 74 on account of non-availability of vacant promotional posts. It appears that as per GO 74 Respondents-employees had become entitled for grant of financial upgradation on the post of Line Inspector with effect from 1 April 1980. By orders issued in the year 1984 Petitioners granted such financial upgradation under GO 74 retrospectively with effect from 1 April 1980. However instead of granting the same on the post of Line Inspector, the same came to be granted on higher post of Line Foremen. Petitioners apparently discovered the mistake after 18 long years and took corrective measures by passing order dated 31 January 1998 re-adjusting the date of grant of financial up-gradation under GO 74 from the year 1980 to the year 1997 and effecting recoveries from the salaries of the Respondents-employees on account of the above mistake.

4 Ms. Baxi is candid enough in admitting that grant of financial upgradation under GO 74 to the Respondent-employees in respect of post of Line Foremen from 1 April 1980 was entirely the mistake on the part of the Petitioner-Organization and that the concerned employees have not misrepresented in any manner for grant of such benefit. In that view of the matter, considering the law laid down by the Apex Court in *State of Punjab*

*and others vs. Rafiq Masih (White Washer) & Ors.*¹, recovery after period of 14 long years was clearly inadmissible.

5 Ms. Baxi has invited my attention to findings recorded by the Industrial Court as under:

“In my opinion, the Complainants are not entitled for the benefit from the date the mistake was rectified but whatever benefits availed by the Complainants from the date of extending the benefits of G.O. 74 till the date it was withdrawn, in my opinion, cannot be recovered.”

6 Thus what is set aside by the Industrial Court is merely the recoveries resulting out of erroneous benefit granted to the Respondent-employees. The error is not allowed to be perpetrated and has already been corrected by the Petitioner-Organization;

7 In my view therefore no palpable error can be traced in the orders passed by the Industrial Court. Writ Petitions being devoid of merits, are dismissed without any orders as to costs. Rule is discharged in all three Petitions.

8 Any case, any of the Respondent-employees have not withdrawn amounts deposited in this Court, the Respondent-employees would be at liberty to withdraw the same alongwith accrued interest.

1 (2015) 4 SCC 334

9 The undertaking of sureties given on behalf of the Respondent-employees shall stand discharged.

10 In view of disposal of the Writ Petitions, Civil Applications do not survive and the same are accordingly disposed of.

(SANDEEP V. MARNE, J.)