

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

WRIT PETITION NO. 5432 OF 2025

Divisional Controller MSRTC
Nahsik Division, Nashik

...Petitioner

V/s.

Maharashtra S. T. Kamgar
Sanghatana, Nashik

...Respondent

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Mr. Yashodeep P. Deshmukh *a/w Vaidehi Pradeep, for the
Petitioner.*

CORAM: SANDEEP V. MARNE, J.

DATE : 5 MAY 2025.

P.C.:

1) It appears that the issue involved in the present Petition is squarely covered by order passed by this Court in ***Divisional Controller MSRTC Nashik V/s. Maharashtra S. T. Kamgar Sanghathana Nashik***¹. The order reads thus:

1. The Petition challenges orders dated 11 May 2022 passed by the learned Member, Industrial Court, Nashik on Applications at Exhibits U-10, U-11. U-12 and U-13 permitting withdrawal of deposited amount by the Members of the Respondent-Union during pendency fo the Complaint.
2. I have heard Mr. Deshmukh, the learned counsel appearing for Petitioner and considered the submissions canvassed by him.
3. It appears that Complaint (ULP) No.37 of 2016 is filed by the Respondent-Union with twin grievances, (i) deduction of various

¹ Writ Petition No.11358 of 2022, decided on (3 April 2025).

amounts from retirement benefits of its members, (ii) non-incorporation of their names in the seniority list for promotional examination on the post of Traffic Controller. By interim order passed on Application at Exhibit U-2 on 16 August 2016, the Industrial Court directed Petitioner-Corporation to deposit the deducted amounts with its Registry. It further directed the Petitioner-Corporation to examine whether the members of Respondent-Union could be considered for promotional examination in view of its past decisions. Towards implementation of the order dated 16 August 2016, the Petitioner-Corporation has deposited various deducted amounts in the Registry of the Industrial Court.

4. It appears that deductions were made on the ground that the four members of Respondent-Union were erroneously granted the benefit of Resolution No.8856, which contemplated grant of regular pay scale on completion of 180 days of service. It was the case of the Petitioner-Corporation that since the very provision for grant of such pay scale was withdrawn, the members of the Respondent-Union had erroneously drawn the benefit of such withdrawn resolution and therefore recoveries were effected from the retirement benefits. It appears that in Complaint (ULP) Nos.117 of 2010 and 183 of 2010, the Industrial Court set aside the decision of the Petitioner-Corporation disallowing the benefit of regular pay scale on completion of 180 days of service on the pretext of withdrawal of the Circular. Petitioner-Corporation filed Writ Petition Nos.7612 of 2016 and 13215 of 2016 in this Court challenging the orders passed by the Industrial Court in the said two Complaints. By order dated 26 September 2017, this Court disposed of the said Petitions upholding the order of the Industrial Court. The only modification that this Court made was to grant time scale of pay only upon satisfaction of all the terms and conditions and eligibility criteria.

5. The Industrial Court has taken note of order dated 26 September 2017 passed by this Court. On account of passing of that order, the very pretext why the Petitioner-Corporation had initiated recoveries had ceased to exist. In that view of the matter, the Industrial Court has proceeded to permit the four members of the Respondent-Union to withdraw the amounts deposited in the Registry of the Industrial Court.

6. Mr. Deshmukh would submit that grant of benefit of time scale of pay is not automatic and it was necessary for the said four

members of Respondent-Union to demonstrate before the Industrial Court that they do fulfill all the eligibility criteria and terms and conditions of the concerned resolution. However perusal of the pleadings in the Memo of the present Petition would indicate that there is no whisper by the Petitioner-Corporation that any of the four members of the Respondent-Union do not in fact fulfill any eligibility criteria of the resolution concerned. In my view therefore, the Industrial Court has rightly permitted withdrawal of the deposited amounts with accrued interest. Petitioner-Corporation had erroneously effected recoveries in respect of past payments at the time of retirement of the concerned employees. Such recoveries were otherwise impermissible in view of law expounded by the Hon'ble Apex Court in ***State of Punjab & Ors. vs. Rafiq Masih (White Washer)*** (2014) 13 SCR 1343.

7. In my view therefore, there is no warrant for interference in the impugned orders passed by the Industrial Court. Petition is devoid of merits, it is accordingly **dismissed** without any order as to costs.

2) For the reason recorded while dismissing Writ Petition No.11358 of 2022, the present Petition also **dismissed**.

[SANDEEP V. MARNE, J.]