IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.127 OF 2026
IN
WRIT PETITION NO.7248 OF 2026

1. The Maharashtra State Power Generation Company Limited

2. The Superintending Engineer, The Maharashtra State Power Generation Company Limited

3. The Executive Engineer, The Maharashtra State Power Generation Company Limited ....Petitioners

V/S

1. The State of Maharashtra

2. Rajesh Eknath Edake ....Respondents

Mr. Suresh Pakale, Senior Advocate with Mr. Sagar Pawar and Ms. Nupur Bapat i/b KP Law Associates *for Petitioners.*
Mr. R.V. Sankpal with Dr. Chandrakant Ambilwade *for Respondent No.2.*
Mr. P.G. Sawant, AGP *for Respondent No.1/State.*

CORAM : SANDEEP V. MARNE, J.
RESERVED ON : 29 OCTOBER 2026.
PRONOUNCED ON : 5 NOVEMBER 2026.

J U D G M E N T :

1. This is a Review Petition filed by the Original Petitioners seeking review of the judgment and order dated 7 July 2026. By the order under

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review, this Court has dismissed the Petition filed by the Original Petitioner-employer challenging the judgment and order dated 24 December 2025 passed by the learned Member, Industrial Court, Pune, in Complaint (ULP) No.19 of 2025. The Industrial Court has partly allowed the Complaint filed by Respondent No.2-employee and has set aside the order dated 24 October 2024 refixing his pay and further directing the Petitioners to fix his pay as per Serial No.45 of Annexure-III of Administrative Circular No.449, dated 5 October 2019. Thus, order fixing pay of Respondent No.2 at Rs.41,070/- with effect from 1 April 2018 is set aside and direction is issued by the Industrial Court to fix the same at Rs.72,875/- with effect from 1 April 2018. Now review of the judgment and order dated 7 July 2026 is sought.

2. The grounds for review are the discovery of new material having a material bearing on the conclusions drawn by this Court in the order under review, as well as an error apparent on the face of the record in failing to notice that Respondent No. 2-employee had received the double benefit of merger of the dearness allowance component, both in the Indian Army and in the Petitioner-establishment.

3. I have heard Mr. Pakale, the learned Senior Advocate appearing for the Petitioners, who submits that the judgment and order dated 7 July 2026 is required to be reviewed since Respondent No.2 had already received the benefit of pay revision based on 7th Pay Commission in the Military service and that therefore he cannot claim the said benefit again in Petitioner's establishment through the Administrative Circular dated

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5 October 2019. He submits that Petitioners have now traced contemporaneous documents, which though existed at the time of passing of order under review and though directly relevant to the issue involved in the case, could not be produced despite exercise of due diligence. According to him, following five documents have now been traced which have material bearing on the conclusions drawn by this Court in the order under review:

(a) General Order No.117(P) dated 31.03.1986;

(b) Notification dated 25.07.2016 issued by the Ministry of Finance, Government of India;

(c) Notification dated 30.01.2019 issued by the Finance Department, Government of Maharashtra;

(d) Government Resolution dated 01.02.2019 issued by the Finance Department, Government of Maharashtra, and

(e) Pay Revision dated 11.09.2019 issued by Mahavitaran, MahaTransco and MahaGenco."

4. Mr. Pakale further submits that the aforesaid documents are directly and materially relevant to the issue involved in the present case. That general order dated 31 March 1986 bears relevance of admissible Dearness Allowance (**DA**) payable to Respondent-employees on par with the DA paid to State Government employees. That Notification dated 25 July 2016 issued by Ministry of Finance, Government of India, has a direct nexus with the pay scale of State Government employees introduced vide Notification dated 30 January 2019. That Government Resolution dated 1 February 2019 spells out how the dearness allowance

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is calculated on the basis of Maharashtra Civil Services (Revised Pay) Rules, 2019. That if the effect of the aforesaid document is considered *qua* the claim of Respondent No.2 of fixation of basic pay at Rs.72,875/-, it would be abundantly clear that he has drawn the benefit of pay fixation (as per 7th Pay Commission recommendations) twice i.e. once in Military service and once again after joining Petitioners' service. He draws attention of this Court to the representation made by one of the Unions of employees of Petitioners demanding introduction of new pay structure in the establishment of Petitioner on account of introduction of 7th Pay Commission scales warranting addition of 125% DA in the basic pay. He submits that the formula of adding 125% DA in the basic pay was adopted by the Petitioner-establishment while introducing new pay structure under administrative circular. He further submits that on account of erroneous pay fixation directed to be granted by the Industrial Court, Respondent No.2 would draw pay equivalent to that of a Superintending Engineer even though he is working on a much lower post of Technician-III.

5. Mr. Pakale further submits that the documents sought to be produced alongwith the Review Petition go to the root of the matter and would assist this Court in correct adjudication of the entire controversy at hand. That, even otherwise, there is an error apparent on the face of the record in this Court having failed to discern the undue benefit of pay fixation granted to Respondent No. 2 and in recording a finding that the military pay drawn by him as on 1 April 2018 was irrelevant. He submits that if the order is not reviewed, the same would cause serious financial

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loss to the Petitioner as the other employees would also start demanding undue pay fixation.

6. In support of his contention that judgment and order dated 7 July 2026 deserves to be reviewed. Mr. Pakale has relied on judgments of the Apex Court in ***Rajender Singh vs. Lt. Governor, Andaman & Nicobar Islands***[1] and ***Neethu B. @ Neethu Baby Mathew vs. Rajesh Kumar***[2]. He therefore prays for review of the judgment and order dated 7 July 2026 and for setting aside the impugned judgment and order dated 24 December 2025 passed by the Industrial Court.

7. *Per contra*, Mr. Sankpal, the learned counsel appearing for Respondent No.2 has strenuously opposed the Review Petition contending that Petitioners are seeking re-adjudication of the same issue by filing a baseless Review Petition. He submits that in exercise of review jurisdiction, this Court cannot re-adjudicate the issue on which there are already findings recorded on merits. He relies on judgment of the Apex Court in ***Sanjay Kumar Agarwal vs. State Tax Officer (1) & Anr.***[3] in support of his contention that the present Review Petition travels beyond the scope of power of review as per the principles laid down by the Apex Court.

8. Mr. Sankpal further submits that the pay fixation exercise in the establishment of Petitioner is carried out every five years and that there

1 (2005) 13 SCC 289

2 (2025) 10 SCC 436

3 2024 (2) SCC 362

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is nothing to indicate that the exercise carried out vide Administrative Circular dated 5 October 2019 had any direct link with implementation of 7th Pay Commission recommendations. That copy of charter of demands allegedly submitted by one of the Unions proposing merger of 125% DA into basic pay cannot be a ground for presuming that there is any link between pay structure introduced by Petitioner with recommendations of the 7th Pay Commission.

9. Mr. Sankpal further submits that there is no Board Resolution or Circular debarring Respondent No.2 from claiming the benefit of revision of pay scale as per Administrative Circular No.449 dated 5 October 2019. That there is nothing on record to indicate that an ex-serviceman who joins service after having availed the benefits of the 7th Pay Commission in military service is debarred from claiming the benefit of pay fixation under the Administrative Circular dated 5 October 2019.

10. He relies on judgment of the Apex Court in ***Mukund K. Pai & Ors. vs. Punjab National Bank & Ors.***[4]***,*** in support of the contention that an ex-serviceman is entitled to protection of the pay and dearness allowance (DA) drawn by him at the time of release from the military service, and that, for the purpose of re-employment, pay means basic pay plus special allowance/special pay admissible in the re-employed post. He relies on judgment of Division Bench of this Court in ***Major Kurian***

4 2025 SCC OnLine SC 2345

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Thomas vs. Bank of Maharashtra & Ors.[5] in support of the contention that the concept of pay fixation of ex-serviceman is evolved to protect the last drawn pay of an ex-serviceman.

11. Mr. Sankpal concludes by submitting that the documents sought to be produced alongwith the Review Petition have no connection to the issue involved in the Petition. That those documents were otherwise available with Petitioners but were not produced on account of their total irrelevance. That Review Petition is filed as if it is an appeal in disguise. He prays for dismissal of the Review Petition.

12. Rival contentions urged on behalf of the parties now fall for my consideration.

13. Before proceeding to decide whether Petitioners have made out a case for review of the judgment and order dated 7 July 2026, it would be necessary to first consider the scope of review jurisdiction. Under Order 47, Rule 1 of the Code of Civil Procedure, 1908 (**Code**) an order can be reviewed when one of the party makes out a case that (i) it has discovered a new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed, (ii) there is a mistake or error apparent on face of record, or (iii) for any other sufficient reason. Order 47 Rule 1 of the Code provides thus:

5 (2002) LLJ BOM 1 372

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> **1.Application for review of judgment**.- (1) Any person considering himself aggrieved,-
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> (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
>
> (b) by a decree or order from which no appeal is allowed, or
>
> (c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.
>
> (2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.
>
> Explanation.—The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.

14. The Apex Court in its judgment in ***Sanjay Kumar Agarwal*** (supra) has discussed the ratio of its various judgments rendered in the past and has broadly set out the principles governing scope of review power under Order 47 of the Code. The Apex Court has discussed ratio of various judgments in paragraphs 7 to 15 of the judgment as under:

> 7. At the outset, it may be stated that the power to review its judgment has been conferred on the Supreme Court by Article 137 of the Constitution the Constitution of India. Of course, that power is subject to the provisions of any law made by the Parliament or the Rules made under Article 145. Supreme Court in exercise of the powers conferred under Article 145 of the Constitution of India has framed the Supreme Court Rules, 2013. The Order XLVII of Part IV thereof deals with the provisions of Review. Accordingly, in a Civil Proceeding,

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an application for review is entertained only on the grounds mentioned in Order XLVII Rule 1 of the Code of Civil Procedure and in a Criminal Proceeding on the ground of an error apparent on the face of record. However, it may be noted that neither Order XLVII CPC nor Order XLVII of Supreme Court Rules limits the remedy of review only to the parties to the judgment under review. Even a third party to the proceedings, if he considers himself to be an "aggrieved person," may take recourse to the remedy of review petition. The quintessence is that the person should be aggrieved by the judgment and order passed by this Court in some respect (2019) 18 SCC 586, ***Union of India vs. Nareshkumar Badrikumar Jagad & Others***. In view of the said legal position, the Review Petitioners who claimed to be the "aggrieved persons" by the impugned judgment dated 06.09.2022, were permitted to file Review Petitions and were heard by the Court.

8. Before adverting to the contentions raised by the learned counsels for the parties, let us regurgitate the well settled law on the scope of review as contemplated in Order XLVII of the Supreme Court Rules read with Order XLVII of CPC.

9. In the words of **Krishna Iyer J**., (as His Lordship then was) "a plea of review, unless the first judicial view is manifestly distorted, is like asking for the Moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result... A review in the Counsel's mentation cannot repair the verdict once given. So, the law laid down must rest in peace, (1980) 2 SCC 167, ***M/s. Northern India Caterers (India) Ltd. vs. Lt. Governor of Delhi.***

10. It is also well settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so, AIR 1965 SC 845, ***Sajjan Singh and Ors. vs. State of Rajasthan and Ors.***

11. In ***Parsion Devi and Others vs. Sumitri Devi and Others***, (1997) 8 SCC 715 this Court made very pivotal observations: -

> "9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 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."

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12. Again, in ***Shanti Conductors Private Limited vs. Assam State Electricity Board and Others***, (2020) 2 SCC 677 a three Judge Bench of this Court following ***Parsion Devi and Others vs. Sumitri Devi and Others*** (supra) dismissed the review petitions holding that the scope of review is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

13. Recently, in ***Shri Ram Sahu (Dead) Through Legal Representatives and Others vs. Vinod Kumar Rawat and Others***", (2021) 13 SCC 1 this Court restated the law with regard to the scope of review under Section 114 read with Order XLVII of CPC.

14. In ***R.P. (C) Nos.1273-1274 of 2021 in Civil Appeal Nos.8345-8346 of 2018 (Arun Dev Upadhyaya vs. Integrated Sales Service Limited & Another)***, this Court reiterated the law and held that: -

> "15. From the above, it is evident that a power to review cannot be exercised as an appellate power and has to be strictly confined to the scope and ambit of Order XLVII Rule 1 CPC. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions."

15. It is very pertinent to note that recently the Constitution Bench in ***Beghar Foundation vs. Justice K.S. Puttaswamy (Retired) and Others,*** (2021) 3 SCC 1 held that even the change in law or subsequent decision/ judgment of co-ordinate Bench or larger Bench by itself cannot be regarded as a ground for review.

15. After considering the ratio of various judgments, in ***Sanjay Kumar Agarwal*** the Apex Court has stated the gist of the said decisions in paragraph 16 of the judgment as under:

16. The gist of the afore-stated decisions is that: -

(i) A judgment is open to review *inter alia* if there is a mistake or an error apparent on the face of the record.

(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

(iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

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(iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected."

(v) A Review Petition has a limited purpose and cannot be allowed to be "an appeal in disguise."

(vi) Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

(vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(viii) Even the change in law or subsequent decision/ judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review."

16. Thus, ordinarily a judgment pronounced by the Court is final and a departure can be made from that principle in a very rare cases when circumstances of the substantial and compelling character make it necessary to do so. In exercise of review jurisdiction, Court cannot correct an erroneous decision by undertaking the process of rehearing. A Review Petition is not a remedy for a party to re-agitate and re-argue the questions which have already been addressed and decided by treating the same as an appeal. It is only where an error apparent on the face of the record is demonstrated, which is evident upon a mere perusal of the record and does not involve a long-drawn process of reasoning, that the Court can exercise its power of review. Consequently, an error that is not self-evident and requires a process of reasoning to be detected cannot be said to constitute an error apparent on the face of the record so as to justify the exercise of the Court's power of review.

17. Mr. Pakale has relied on judgment of the Apex Court in ***Neethu B @ Neethu Baby Mathew*** (supra) in which the Apex Court has expounded

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the principles for entertaining review on the ground of discovery of new matter or evidence by applying a triple tests of (i) new matter/evidence having capability of changing the judgment, (ii) new matter/evidence not being in knowledge of the party seeking review and (iii) inability to produce the same before the Court even after due diligence. The Apex Court has held in paragraphs 12 and 13 of the judgment as under:

> [12] The principle has also been illuminated upon in the case of State of West Bengal & Ors. v. Kamal Sengupta & Ors., 2008 8 SCC 612 wherein it has been held that this Court, before entertaining review on the ground of discovery of new matter or evidence is required to record its satisfaction about three aspects, which can also be called as "**triple test" i.e., (i) new matter/evidence discovered is of such nature which could change the judgment (ii) such new matter/evidence was not within the knowledge of the party seeking review (iii) same could not be produced before court even after due diligence.** When any of the conditions of the test, as laid down above is not fulfilled, "discovery of new matter/evidence" ipso facto would not be sufficient ground for the Court to interfere with the finality of the judgment.
>
> [13] As such, it is established that the power of review jurisdiction is to be used in a restrained manner and only in circumstances as illustrated above. Hence, we are cognizant of the heavy burden that is to be fulfilled by this Court while entertaining a review petition.
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> *(emphasis and underlining added)*

18. Thus, in ***Neethu B @ Neethu Baby Mathew*** (supra) the Apex Court has held that power of review jurisdiction is to be used in a restrained manner and has illustrated the three eventualities discussed in paragraph 12 of the judgment.

19. Mr. Pakale has also relied on judgment of the Apex Court in ***Rajender Singh*** (supra) in which it is held in paragraph 10 as under:

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> "[10] The power, in our opinion, extends to correct all errors to prevent miscarriage of justice. **The courts should not hesitate to review its own earlier order when there exists an error on the face of the record and the interest of the justice so demands in appropriate cases.** The grievance of the appellant is that though several vital issues were raised and documents placed, the High Court has not considered the same in its review jurisdiction. In our opinion, the High Court's order in the revision petition is not correct which really necessitates our interference."
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> *(emphasis added)*

20. Thus, in ***Rajender Singh*** *(supra)* the Apex Court has held that power of review extends to correct all errors to prevent miscarriage of justice and that Court should not hesitate to review its own order when there exists error on the face of record and where the interest of justice so demands in the appropriate case.

21. Having considered the contours of review jurisdiction, I now proceed to decide whether Petitioners have made out a case for review of the judgment and order dated 7 July 2026.

22. After going through the findings recorded in the order under review and after considering the contentions raised in the Review Petition, one thing that immediately strikes this Court is the fact that Respondent No.2- employee has secured the benefit of pay fixation twice i.e. once in military service and once again after joining the service of the Petitioner-establishment. While delivering judgment and order dated 7 July 2026, it did not strike to this Court that Respondent No.2 had joined the establishment of the Petitioners during gap period i.e. the date on which 7th Pay Commission recommendations are implemented in the Indian Army (1 January 2016) and the date of introduction of the

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new pay structure in Petitioner-establishment vide Administrative Circular dated 5 October 2019. For those ex-servicemen joining Petitioners before 1 January 2016 and after 1 April 2018, the benefit of pay fixation would be available only once. Those joining Petitioners before 1 January 2016 would not have secured the benefit of 7th Pay Commission fixation in the military service and would receive only the benefit of pay fixation as on 1 April 2018 in Petitioners' service. Similarly those joining the Petitioners' service after 1 April 2018, would receive the benefit of pay fixation only in Military service as on 1 January 2016. However just because Respondent No. 2 has joined during this gap period between 1 January 2016 and 1 April 2018, he has secured the bonanza of double pay fixation.

23. Respondent No. 2 joined the services of Petitioners-establishment on 25 November 2016. Petitioners had specifically pleaded in the Petition that Respondent No.2 had not produced his last pay certificate of Military service at the time of joining Petitioners' service and had merely submitted a copy of the discharge card. Respondent No.2 got his Military service pay refixed as per 7th Pay Commission scales and thereafter produced his last pay certificate of Rs. 37,300/-. Otherwise, in the 6th Pay Commission, his Military service pay was only Rs.11,440/-. After joining the service of the Petitioners, he got his pay fixed at Rs.37,300/- (*by enjoying the benefit of pay protection*) even though he would have started his journey on the post of Technician-III at Rs.11,275/-. This is how he used 7th Pay Commission benefit in the Military service for getting his pay fixed at a higher level of Rs.37,300/- in Petitioners' service.

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24. The Petitioners introduced a new pay structure in their organization vide Administrative Circular dated 5 October 2019, which adopted the same formula as that of 7th Pay Commission by merging 125% DA into basic pay (*and adding 32.50% in the basic pay*). Respondent No. 2 sought to impress upon the Industrial Court, as well as to this Court that following the introduction of new pay structure w.e.f. 1 April 2018, he was entitled to draw the pay in new structure corresponding to the one which he drew as on 31 March 2018. This is how he got his pay fixed at Rs.72,875/- with effect from 1 April 2018.

25. It is thus more than apparent that the Respondent secured the benefit of pay revision twice in Military service as well as in the service of Petitioners, which is clearly not due and payable to him. While Petitioners did plead this sketchily in paragraph 12 of the Writ Petition, they did not produce any supporting material to indicate that the Administrative Circular dated 5 October 2019 adopted the formula of 125% merger of DA into basic pay on account of adoption of similar formula by the State Government while implementing 7th Pay Commission recommendations.

26. Now Petitioners have produced several documents to demonstrate before the Court that the new pay structure introduced vide Administrative Circular dated 5 October 2019 was an outcome of importing of the formula of State Government under 7th Pay Commission. In short, Petitioners seek to rely upon certain documents to demonstrate that there is a direct connect between the new pay

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structure introduced vide Administrative Circular dated 5 October 2019 and 7th Pay Commission scales implemented by the State Government.

27. Petitioners have relied on General Order No.117(P), dated 31 March 1986, by which a decision has been taken by the then Maharashtra State Electricity Board (**MSEB**) to adopt the rates of dearness allowance admissible to State Government employees from time to time. Thus, General Order dated 31 March 1986 indicates decision taken by the Petitioners to apply rates of dearness allowance as and when revised by the State Government.

28. Petitioners have then relied upon Notification dated 25 July 2016 issued by Ministry of Finance, Department of Expenditure, Government of India, thereby notifying Central Civil Services (Revised Pay) Rules, 2016 for implementing the recommendations of 7th Pay Commission with effect from 1 January 2016. The document is produced to demonstrate that Respondent No.2 got his pay refixed in the Military service with effect from 1 January 2016 as per 7th Pay Commission pay scales.

29. Petitioners have thereafter relied on Notification dated 30 January 2019 issued by State Government for notifying the Maharashtra Civil Services (Revised Pay) Rules, 2019. By adopting the fitment formula of 2.57 as accepted by the Central Government on the basis of 7th Pay Commission's recommendations.

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30. Petitioners have thereafter relied upon Memorandum of Settlement executed between it and the Unions/Associations. Based on the various demands raised by the Unions, the said Memorandum of Settlement provides for an increase of 32.5% in the pre-revised basic pay as on 31 March 2018, along with the merger of 125% of Dearness Allowance with the basic pay. Thus, the new basic pay with effect from 1 April 2018 comprised of (i) old basic pay, (ii) 125% of old basic pay, and (iii) 32.5% of old basic pay.

31. The Petitioners have also placed on record, by way of an Additional Affidavit, their demand for the merger of 125% Dearness Allowance (DA), contending that a similar benefit was being extended to employees of the State Government. This document is produced to establish that the pay was revised in Petitioners' establishment by considering the demands of the employees to consider 7th CPC recommendations. Mr. Sankpal has attempted to counter the submission contending that several representations were made by several employees and unions and that the Petitioners cannot selectively rely on only one representation. It is contended that revised pay fixation vide Administrative Circular has no nexus with the State Government's implementation of 7th CPC scales. However the documents are sought to be relied on to establish a link between State Government's decision relating to DA and pay structure of Petitioners. Also there is some material to indicate the nexus between the 125% DA merger formula adopted by the Petitioners and State's decision to implement 7th CPC scales.

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32. Mr. Pakale has also placed reliance on the last pay certificate of Respondent No. 2 in the Military service. As per that Certificate issued by Record Officer, OIC Records, Respondent No. 2 was drawing the basic pay of Rs.11,440/- upto 31 December 2015. While making his revised pay fixation as on 1 January 2016, the DA of 125% was merged while arriving at the new basic pay of Rs. 37,000/-.

33. True it is that the aforesaid documents sought to be produced now with the Review Petition were in the custody of the Petitioners. However, Petitioners have taken up the plea that despite exercise of due diligence, they could not produce the same. No doubt the documents now sought to be produced have a direct bearing on the issue involved in the Petition and ought to have been produced earlier. However, whether this Court would be justified in turning a blind eye to the same merely because the Petitioners failed to produce the same at the time of passing of order under review?. The answer, to my mind appears to be in the negative. Issue for consideration is if the documents now sought to be produced were brought to the notice of the Court and if it was demonstrated to this Court based on those documents that Respondent No.2 has secured the benefit of pay fixation twice, when the main petition was argued, whether the result would have been the same? The answer again is in the negative. If this Court would have noticed earning of double benefit of revised pay structure by Respondent No.2, once in military service and again in Petitioner's service this Court would have allowed the Petition by setting aside the order of the Industrial Court.

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34. It is seen that, in the peculiar facts of the present case, Respondent No. 2-employee has witnessed a steep increase in his pay, from Rs. 11,440/- drawn as Military Service Pay as on 31 December 2015 to Rs. 72,875/- with effect from 1 April 2018, in Petitioners' service . This high jumping has occurred on account of he receiving benefit of 7th Pay Commission recommendations in Military service thereby increasing his basic pay from Rs.11,440/- to Rs.37,300/-. He was granted the benefit of pay protection in the service of the Petitioners. Accordingly, notwithstanding the fact that the pay scale applicable to the post of Technician-III did not provide for a stage of Rs. 37,300/-, he was granted personal pay to the extent of Rs. 37,300/- for the purpose of protecting his pay. He once again sought the benefit of revised pay fixation in the services of Petitioners as on 1 April 2018. The extent of this double jump is such that despite working on the post of Technician-III according to Mr. Pakale, he started drawing basic pay that of an Executive Engineer. Despite working on far inferior position as Technician-III, Respondent No. 2 started drawing basic pay almost that of an Executive Engineer on account of double benefit of affixation received by him. Can this Court shut the doors on the Petitioners despite noticing this phenomenon after perusal of new documents filed alongwith the Review Petition? Can this Court refuse to review its order only on the ground that the documents now sought to be produced could also have been produced at the time of hearing of the main Petition. As observed above, the Apex Court has held in ***Rajender Singh*** (supra) that Courts should not hesitate to review its own order when there exists an error on the face of record and particularly in the interest of justice. Similarly in ***Neethu B. @***

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Neethu Baby Mathew (supra) the Apex Court has held that when new matter/evidence discovered is of such nature that it would change the judgment, the Court can review its own order by taking into consideration such evidence/material.

35. In the present case, the new material that is produced alongwith the Review Petition strikes at the root of the matter and changes the judgment under review. There is also an error on the face of the record on the part of this Court in not realizing the folly of securing of the benefit of pay fixation twice by Respondent No. 2 resulting in sudden jumping of his pay from Rs.11,440/- in military service as on 31 December 2015 to Rs.72,875/- as on 1 April 2018 in Petitioners' service. No one can get such jump of 7 times in a short gap of 3 years. His jump is required to be restricted to Rs.41,000/- by ensuring that the benefit of pay fixation is granted to him only once. Now that the apparent error is brought to the notice of the Court, it would be the duty of the Court to correct itself rather than letting perpetration of erroneous order. For correcting the error, re-adjudication is not necessary as the error is apparent on face of record. While reviewing the order, this Court is not exercising appellate powers nor the corrections of apparent error requires long drawn process of reasoning on points where there can be two opinions. Once it is discovered through production of new material that Respondent No.2 has received undue benefit of double revision of pay, the only opinion which can be drawn is to ensure that the benefit of revision of pay is granted only once.

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36. If the error committed by this Court is not corrected, the same would have serious financial impact on the Petitioners. The impact would not be restricted only to Respondent No.2 as other similarly placed employees would start demanding similar benefits. His senior employee may ask for equal wages. In my view therefore, once the error is discovered, it is the duty of this Court to correct the same.

37. Mr. Sankpal has also realised the fact that there is double pay fixation in case of Respondent No. 2 i.e. once during Military service and again in the services of the Petitioners. He however, submits that there is no express prohibition or exclusion in the Administrative Circular dated 5 October 2019 from claiming the benefit of pay fixation once again merely because ex-serviceman has already received the benefit once in Military service. Respondent No.2 is thus attempting to take undue benefit of joining services of Petitioners during the gap period of date of implementation of 7th Pay Commission scales in Military service (1 January 2016) and the date of introduction of revised pay structure in the establishment of Petitioners (1 April 2018). Otherwise, any other ex-serviceman drawing basic pay of Rs.11,440/- in Military service and joining services of MSPGCL on 31 December 2015 would get his pay fixed only at the level of Rs.11,440/- (*little higher than entry-level pay of Rs.11,275/- in pay scale of Rs.11,275-28,240 of Technician-III*). Similarly, an ex-serviceman joining services of MSPGCL after 1 April 2018 would get his pay fixed in MSPGCL at Rs.37,300/- (*by protection of last pay drawn in Military service after 7th Pay Commission benefit*). Because Respondent No.2 joined during gap period of 1 January 2016 to 1 April

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2018 and because he is claiming benefit of pay fixation twice i.e. once on 1 January 2016 (in Military service) and again on 1 April 2018 in MSPGCL service, he is claiming direct jump in the basic pay to the stage of Rs.72,875/-. This cannot be countenanced under any circumstances and in my view, this is a fit case where this Court needs to exercise power of review to correct an error apparent on face of the record in the judgment and order dated 7 July 2026.

38. Therefore, I am of the view that the Industrial Court has grossly erred in allowing Complaint (ULP) No.19 of 2025. Petitioners have rightly done pay fixation of Respondent No.2 at Rs.41,070/- in the revised pay scale of Rs.29035-72875/- introduced with effect from 1 April 2018 by Administrative Circular dated 5 October 2019. There was no warrant of interference in the said pay fixation exercise done by the Petitioners. This exercise ensures that the Respondent No.2 secures the benefit of pay fixation only once and does not secure any undue advantage. The pay fixation exercise done vide order dated 24 October 2024 still ensures that Respondent No.2 draws higher basic pay than his civilian counterpart. Mr. Pakale has placed on record a chart to indicate that civilian counterpart of Respondent No.2 joining on the post of Technician-III on 25 November 2016 would receive basic pay of Rs.31,165/- as on 1 April 2018 as per Administrative Circular dated 5 October 2019. As against this, the order dated 24 October 2024 ensures that his pay is fixed at Rs.41,070/- as on 1 April 2018.

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39. This Court is conscious of the position that by a detailed and reasoned judgment rendered against the Petitioners, the order of the Industrial Court has been upheld. However, if an error has crept in, it would be unfair for this Court to permit perpetration of the error by refusing to correct itself. While passing the order under review, this Court did not realize the fact that Respondent No. 2 had secured benefit of pay fixation twice and had therefore jumped from Rs. 11440/- to Rs.72,875/- in a short gap of 3 years. Realization of this error changes the whole complexation of the matter. Once the folly of double pay fixation is established, it is unnecessary to delve into other technical aspects of pay fixation, which exercise this Court has erroneously undertaken in the order under review. The error is glaring and strikes to the root of the matter. Now that the error is brought to the notice of this Court, it would be inappropriate to shut the doors of the Court on the Petitioners by refusing to entertain the review petition. In my view therefore the judgment deserves to be reviewed and recalled and the Order of the Industrial Court is required to be set aside.

40. However, order dated 24 October 2024 directs recovery of excess wages paid to Respondent No.2 on account of earlier pay fixation order dated 22 September 2021. In my view, it would be harsh to subject Respondent No. 2 to recovery proceedings. Having regard to the complexities involved in the matter and the fact that the Petitioners themselves took time until 24 October 2024 to realise the error in the earlier pay fixation, in my view, no recovery needs to be made from

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Respondent No.2 on account of his revised pay fixation vide order dated 24 October 2024.

41. Review Petition accordingly succeeds in part and I proceed to pass the following order:

i) Judgment and order dated 7 July 2026 is reviewed and recalled.

ii) Judgment and order dated 24 December 2025 passed by Industrial Court, Pune in Complaint (ULP) No.19 of 2025 is set aside.

iii) Order of pay fixation dated 24 October 2024 of Respondent No.2 is confirmed.

iv) However, Petitioners shall not make any recovery from Respondent No.2 as a result of revised pay fixation vide order dated 24 October 2024.

42. Writ Petition No.7248 of 2026 is allowed to the above extent.

43. Review Petition as well as Writ Petition are accordingly **disposed of**. There shall be no order as to cost.

SUDARSHAN RAJALINGAM KATKAM

Digitally signed by SUDARSHAN RAJALINGAM KATKAM
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(SANDEEP V. MARNE, J.)

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