

BEFORE THE MEMBER, INDUSTRIAL COURT NO.02, KOLHAPUR**COMPLAINT (U.L.P) NO.35/2024.****Shri. Mahesh Ramchandra Joshi,**

Age :- 52 Yrs., Occu. :- Service,

R/o. Gargoti (Sonali), Tal. :- Bhudargad, .. **Complainant**

Dist. :- Kolhapur 416 209.

V/s.**1) Divisional Controller,** .. **Respondent No.01**Maharashtra State Road Transport
Corporation, Divisional Office,
S. T. Stand, Kolhapur.**2) Depot Manager,** .. **Respondent No.02**Maharashtra State Road Transport
Corporation, Radhanagari Depot,
Dist. :- Kolhapur.

CORAM :- Shri. V. P. Adone, Member.J. O. Code :- MH00009.

APPEARANCE :-

For Complainant : Ld. Adv. Shri. D. S. Joshi

For Respondents :- Ld. Adv. Shri. V. S. Chavan

ORDER BELOW EXH.U-02

(Passed on this 23rd day of February, 2026)

1) This application is filed under Section-30(2) of M.R.T.U. & P.U.L.P Act, 1971 for interim order.

Facts of the case in brief are as follows :-

2) Maharashtra State Road Transport Corporation is an 'Industry' and Transport Agency engaged in business of public transport. Respondent No.01 is Divisional Controller of Kolhapur Division and respondent No.02 is Depot Manager of Radhanagari Depot. Complainant is working as Head Mechanic in the Mechanical Department and performing duty of Artisan i.e. Technical duty of bus repair. Complainant is a 'Workman' under Section-2(s) of Industrial Disputes Act, 1947 and respondent is 'Industry' under Section-2(j) of Industrial Disputes Act, 1947.

3) Complainant joined service of respondent as Assistant in year 1997 and later on in year 2009 he was promoted as Assistant Artisan. On 26/10/2010 advertisement was published in news paper for post of Artisan-A (Junior) i.e. Karigar-K (कनिष्ठ). Complainant applied for same and vide order No.342/11 dated 24/05/2011 he was appointed as Artisan-A (Junior). His basic was fixed as Rs.7,281/- and after completion of three years service vide Office Order No.270/14 his

basic salary was fixed Rs.8,992/-. The wage of complainant was re-fixed as per Circular dated 30/08/2018 and he is given chart of wage fixation. In February 2024 salary of complainant was Rs.32,311/-. Complainant was shocked to receive order No.13/24 dated 18/03/2024 about reducing basic to Rs.31,448/- by recalculating from year 2011 assuming 03% rise in basic pay fixation of Artisan-A (Junior) was incorrect. On the basis of unilateral conclusion and without any notice or hearing basic pay of complainant is reduced to Rs.31,448/- wherein complainant is drawing Rs.32,311/- per month. The proposed reduction of wages from March 2024 by respondent is illegal. Complainant is further informed that past difference will be recovered. Respondent is unilaterally changing wage scale which was given 13 years ago by following due procedure. Hence, complaint is filed challenging Administrative Order No.13/24 dated 18/03/2024. In this complaint application Exh.U-02 is preferred seeking interim relief to stay above Administrative Order No.13/24 dated 18/03/2024 and restricting respondents to reduce salary of complainant.

4) Complaint and application Exh.U-02 are resisted on the basis of say and Written Statement at Exh.C-03. Respondents have alleged that complaint is false, frivolous, not maintainable and that there is no cause of action. It is denied that respondents are engaged in

unfair labour practice. It is alleged that complainant joined service on 24/09/1997 as Junior Assistant and as per cast ratio he was absorbed on vacant post on 05/11/1998 in temporary monthly pay scale. At that time his salary was fixed Rs.2,500/- and thereafter he was absorbed in time scale category with salary fixed as Rs.2,610/-. Complainant was promoted as Assistant Artisan on 01/09/2008 and his salary was fixed Rs.6,662/-. Complainant was directly recruited and appointed as Artisan-C on 12/01/2011 prior to that his basic salary was Rs.7,068/- on original post of Assistant Artisan. Since, basic pay of complainant was higher than his basic pay of Artisan-C, it was required to give him appointment on basic pay scale prior to his promotion. However, by oversight pay scale was given to complainant as Rs.7,281/- by giving one increment of 03%. This mistake has come to notice of respondent, so as per Circular salary structure was re-fixed. Hence, there is no act of unfair labour practice and respondent has right to receive excess money paid to employees. It is alleged that complainant has suppressed material facts from Court. In this light of these contentions prayer is made to reject application.

5) Heard both learned Advocates and perused the record. On the basis of submission made by respective parties and record produced before this Court, following points are considered for discussion which

are discussed and necessary findings to that effect recorded as under :

POINTS	FINDINGS
1) Does complainant succeed to show strong <i>prima-facie</i> case and balance of convenience in her favour ?	.. In the negative.
2) Whether complainant shall be put to irreparable loss for non grant of interim relief ?	.. In the negative.
3) What order and relief ?	.. As per final order.

REASONS

AS TO POINTS NO.01 TO 03 :-

6) It is serious contention of complainant that on the basis of order No.342/11 dated 24/05/2011 and Circular of respondent dated 14/02/2008 he was appointed on post of Artisan-A (Junior) with basic salary of Rs.7,281/-. After satisfactorily completing service of three years by Office Order No.270/14 his basic pay was fixed as Rs.8,992/-. The wages are re-fixed as per Circular dated 30/06/2018 and in February 2024 basic pay of complainant was Rs.32,311/-. However, complainant is in receipt of order No.13/24 dated 18/03/2024 pertaining to reducing his salary to Rs.31,448/- by recalculating basic from year 2011 assuming that 03% rise in pay fixation was incorrect. In support of this contention complainant placed on record Office Order No.342/11 pertaining to direct appointment of complainant. Order

No.270/14 is filed on record and it shows that after completing service of three years salary of complainant was fixed as Rs.8,992/-. Office Order No.401/18 shows new scale of complainant 12,980 – 28,659. Office Order No.13/24 dated 18/03/2024 which is under challenge is also filed on record.

7) Respondents have come up with simple contention that prior to appointment of complainant on 12/01/2011 as direct recruit Artisan-C his basic salary was Rs.7,068/-. As basic pay of complainant was higher than his basic pay of Artisan-C (Junior), it was required to give him appointment on the basis of basic pay scale prior to his promotion. However, by oversight wrong pay scale of Rs.7,281/- was given to complainant along-with one increment of 03%. As this mistake came to knowledge, on the basis of Circular salary structure was re-fixed. Such restructure is legal, fair, proper and as per rules.

8) Respondent also filed on record copy of appointment of complainant as direct recruit pay structure of complainant. Along-with list Exh.U-11 complainant filed on record Circular No.06/16 dated 22/02/2016. It is in respect of doing away with discrepancies in pay scale of Junior Grade employees as per Employment Agreement 2012-2016. In this Circular directions are given to initiate action against Junior Grade employees whose wages are fixed by wrongly granting 03% increment.

9) Complainant at no point of time challenged that he was

required to give appointment on basic pay scale which was prior to his promotion. He also does not disown that his basic pay scale was Rs.7,068/- but after promotion it was wrongly fixed as Rs.7,281/- by giving one increment of 03%. So it is *prima-facie* clear that pay scale of complainant is incorrectly fixed and he is paid in excess.

10) Advocate Shri. D. S. Joshi for complainant in support of contention placed reliance upon judgment of Hon'ble Supreme Court in case of *State of Punjab and Others V/s. Rafiq Masih (White Washer), A.I.R., 2015, Supreme Court, 696*. In this judgment Hon'ble Apex Court held it impermissible to recover from employees when excess payment has been made for a period in excess of five years before the order of recovery is issued.

11) In application Exh.U-02 prayer is made to stay Administrative Order No.13/24 and direct respondent to not reduce basic wages. In this application no prayer is made to prohibit respondent from effecting recovery. So, at the stage of deciding interim relief application with above prayer, complainant cannot seek advantage of ratio of above judgment. Moreover, in complaint Exh.U-01 also no allegations are made that respondents are illegally trying to initiate recovery.

12) The learned Counsel of complainant further placed reliance upon the judgment of Hon'ble Supreme Court in *Jagdish Prasad Singh V/s. State of Bihar, 2024, Latest Case Law, 499, S.C*. In this judgment it

is observed that the action of recovery of excess payment from Government employee is punitive because the same has drastic as well as evil consequences. It is mentioned earlier that no protection is claimed in this application restraining respondent to initiate action of recovery. Moreover, complaint is silent about action of respondents as regards recovery.

13) Finally, reliance is placed upon judgment of Hon'ble Bombay High court in *Writ Petition No.14526/2019, Ajabrao Rambhau Patil V/s. State of Maharashtra, decided on 16/09/2022*. This judgment is also in respect of recovery.

14) Advocate Shri. V. S. Chavan for respondent placed reliance upon judgment of Hon'ble Bombay High Court in case of *Mandeep Singh Kohli V/s. Union of India and Others, MANU/MH/0236/2020*. In this judgment Hon'ble High Court was pleased to dismiss petition holding that material facts were suppressed by petitioner. In present case also complainant did not whisper about 03% additional increment.

15) The Counsel of respondent also placed reliance upon judgment of Hon'ble Supreme Court in *Chandi Prasad Uniyal and Others V/s. State of Uttarakhand, MANU/SC/0656/2012*. In this judgment Hon'ble Supreme Court held that authority shall be entitled to recovery of excess pay scale given to employee or other person as per law.

16) At this juncture matter is under consideration for grant of

interim relief. In application under Section-30(2) M.R.T.U. & P.U.L.P Act, complainant primarily prayed to stay Administrative order No.13/24 dated 18/03/2024 and called upon respondent to not reduce his salary. Whether the fixation of complainant is correct or not is yet to decide. Only on the basis of oral and documentary evidence of both sides, one may come to conclusion, if grievance of complainant is correct or defence put forth by respondent is right. Once it is decided that there has been excess payment, then only respondent may initiate action for recovery.

17) Primary relief is claimed by complainant that respondent be restricted from deducting salary and recover money. In this backdrop, it was incumbent upon complainant to *prima-facie* show that salary drawn by him is proper and as per applicable Service Rules, Settlement and Agreement. However, no strong evidence or material is given to show that there was no error in fixing his salary and that respondent is at fault to correct his salary scale. Therefore, complainant is unsuccessful to show *prima-facie* case. So also complainant has not shown that balance of convenience is in his favour and that he would sustain irreparable loss, if interim relief is not granted. If at all application for interim relief is rejected and ultimately complainant succeeds to prove his claim, then he would get all reliefs from Court. This means at the end of this litigation, if it culminates in favour of complainant, by order of Court his loss will be made good. On the

contrary, if interim order is granted in favour of complainant and ultimately he fails to succeed, it would be a tedious and daunting task for respondent to recover excess amount paid. So, balance of convenience and irreparable loss are also not in favour of complainant.

18) Taking into consideration all facts of the case and in the light of discussion in above paragraphs, it cannot be *prima-facie* held that respondents are indulged in unfair labour practice by reducing salary of complainant. Hence, there is no *prima-facie* case and balance of convenience in favour of complainant and irreparable loss will not cause to him in case of non grant of interim relief. As a result of this points No.01 and 02 are answered in '**Negative**' and as an answer to point No.03 following order is passed.

ORDER

- 1) Application is rejected.

Kolhapur.

Date :- 23/02/2026.

(V. P. Adone)

Member,

Industrial Court No.02, Kolhapur.