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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4602 OF 2019

Pennant Engineering Pvt. Ltd.	..Petitioner.
V/s.	
Pennant Employees Union	..Respondent.

Mr.Varun Joshi with Chetan Alvi for the petitioner.

Mr.Nitin A.Kulkarni for the respondent.

CORAM: NITIN W.SAMBRE, J.

DATE : JUNE 19, 2019

P.C.:-

Heard respective counsel.

2. In November 10, 2017 pursuant to the provisions of sub-section (12) of section 4 of the Industrial Disputes Act, a reference was made to the Industrial Tribunal for wage hike and other demands made by the respondent-union.

3. During pendency of the said proceedings, an application is moved by respondent-union for grant of interim relief thereby seeking wage hike and the same is allowed by the impugned order dated October 22, 2018 granting wage hike since April, 2016 till the final disposal of the main reference. As such,

this petition.

4. Learned counsel for the petitioner would submit that while granting interim wage hike, learned Tribunal has committed error of law by applying unreasonable parameters, ignoring the fact that the petitioner is running into losses. So as to substantiate the said contention, the petitioner has invited the attention of this Court to the losses suffered by the petitioner since 2014-15 onwards. The petitioner has invited attention of this Court to the judgment in the matter of *Walchandnagar Industries Ltd. V/s. Construction Employees' Union and another*¹ and would urge that the Tribunal while considering grant of interim wages should have applied the same parameters as are applied at the time of deciding the reference finally in the matter of grant of wage hike. He would submit that various principles as enumerated in the said decision industry cum region formula and capacity of the industry to pay are ignored. As such, according to him indulgence is warranted.

5. *Per contra*, learned counsel for the respondent-union submits that the Tribunal while granting interim wages has considered various submissions of the petitioner and at one point

1 2003 SCC Online Bom. 849

of time, the petitioner agreed for wage hike of Rs.6,000/- for a period from April 1, 2016 to March 31, 2019 as against the demand of respondents for Rs.10,000/-. According to him, the said agreement / settlement was not finally arrived at. He submits that since 2014, there is no wage hike provided and that being so, the order impugned is based on proper reasoning.

6. If the order impugned is perused, what is noticed is, the Industrial Court was sensitive to the fact as regards the copies of the proceedings which are produced along with the application for grant of interim relief at Exhibit-71. The fact remains that the petitioner agreed for a wage hike of Rs.6,000/- for a period from April 1, 2016 to March 31, 2019. However, the said agreement was not taken to its logical end as the parties were in disagreement.

7. The aforesaid position coupled with the fact that since 2013 no wage hike is permitted in favour of the respondents has prompted the Industrial Court to pass impugned order.

8. So far as the submissions of the petitioner that it is running into losses or unreasonable parameters are applied, in the aforesaid background need to be rejected.

9. So far as reliance placed by the petitioner on the judgment of *Walchandnagar Industries Ltd., (supra)* is concerned, the parameters provided therein for the purpose of deciding hike in wages can be relied upon and drawn, at the final stage of the proceedings i.e. after the parties lead their evidence.

10. In the aforesaid background, no material illegality can be noticed which warrants interference in the supervisory jurisdiction of this Court. The petition fails and is dismissed.

(NITIN W.SAMBRE, J.)