

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

Kamala Narayan Uttekar	}	Petitioner
versus		
M/s. Podar Mills and Ors.	}	Respondents

Laxmibai Pandu Patil	}	Petitioner
versus		
M/s. Podar Mills Unit of	}	
N. T. C. Ltd and Ors.	}	Respondents

Ratnaprabha R. Kadam } Petitioner
versus
M/s. New Hind Mills and Ors.} Respondents

Smt. Parvati Ghag	}	Petitioner
versus		
India United Mills No. 2	}	Respondents

Subhadra D. Kumbhar } Petitioner
versus
M/s. Mafatlal Industries Ltd. } Respondents

**WITH
WRIT PETITION NO. 1345 OF 2019**

Savita Vitthal Patil	}	Petitioner
versus		
India United Mills No. 5	}	
and Ors.	}	Respondents

**WITH
WRIT PETITION NO. 1399 OF 2019**

Pratibha Prabhakar	}	
Mithbavkar	}	Petitioner
versus		
Podar Mills and Ors.	}	Respondents

**WITH
WRIT PETITION NO. 923 OF 2020**

Vibhavari Vinod Kamtekar	}	Petitioner
versus		
Tata Mills and Ors.	}	Respondents

Ms. Nivedita Deshpande i/by. Mr. S.N. Deshpande for
Petitioner in all matters.

Mr. Anoop U. Patil for respondent no.1 in WP/1345/2019,
WP/1399/2019 and WP/923/2020.

Mr. A.L. Patki, Addl. Government Pleader for respondent
no.2 – State in WP/1837/2002, WP/1698/2003 and
WP/1399/2019.

Mr. Kedar Dighe, AGP for respondent no.2 – State in
WP/1345/2019.

Mr. Sukanta A. Karmakar, AGP for respondent no.2 –
WP/923/2020.

Mr. L. T. Satelkar, AGP for respondent no.2 – WP/600/2013.

Ms. Uma Palsuledesai, AGP for respondent no.2 – State in WP/387/2016 and WP/115/2003

Mr. P. M. Palshikar a/w. Mr. Anil D. Yadav for respondent no.3 – UOI in all matters.

**CORAM : DIPANKAR DATTA, CJ. &
M. S. KARNIK, J.**

DATE : AUGUST 23, 2022.

ORDER :

1. This group of writ petitions involve common issues and hence disposed of by a common order.
2. Shorn of unnecessary details, suffice it to observe that the petitioners – female employees of the respondent no.1 – Textile Mills, which is a unit of National Textile Corporation Ltd. (hereafter 'NTC' for short), prayed for a direction striking down a portion of Standing Orders 11-A/20-A framed by the employer under the provisions of Bombay Industrial Relations Act, 1946 (now, renamed as Maharashtra Industrial Relations Act; for short, hereafter 'the Act') to the extent it discriminates between male and female employees.
3. The petitioners were working in various capacities as Operative/Clerk/Winder with the respondent no.1. As per the Standing Orders, the petitioners were to superannuate on reaching the age of 60 years. The petitioners were accordingly informed that they would retire on

superannuation on and from the date when they attain the age of 60 years. The concerned Standing Order 11-A and 20-A for the clerical staff and operative staff read thus: -

"11-A: - An employee shall retire from service on attaining the age of 60 years, but a male employee shall be retained in service if he continues to be efficient up to the age of 63 years, provided that when retrenchment becomes necessary, an employee who has completed the age of 60 years may be retired in preference to younger person".

20-A For Operatives : - "An operative shall retire from service on attaining the age of 60 years, but a male operative shall be retained in service, if he continues to be efficient, up to the age of 63 years, provided that when retrenchment becomes necessary, a person who has completed the age of 60 years may be retired in preference to younger men".

4. According to the petitioners, the distinction between the female employee and male employee is wholly arbitrary and violative of Articles 14 and 15 of the Constitution of India.

5. This Court had an occasion to consider a similar challenge in Writ Petition No. 2689 of 2018 (**Anupama R. Dhukande vs. M/s. Podar Mills & ors.**) raised by a similarly situate employee like the petitioners. By the judgment dated August 19, 2019 in **Anupama R. Dhukande** (supra), this Court held that the relevant Standing Orders insofar as they apply only to male employees are violative of Articles 14 and 15 of the

Constitution. This Court, therefore, declared that the provisions of Standing Orders 20-A and 11-A shall apply irrespective of the fact whether the concerned employee is a male or female employee. This Court in paragraph 10 held thus: -

“10. Under the circumstances, it is declared that respondent no.1 was not justified in not considering the petitioner’s case for extension of service beyond the age of 60 years only on the ground that she was a female employee. She is entitled to the such consideration in accordance with the rules and regulations and judicial pronouncement noted above. During the pendency of this petition, the petitioner has been protected by an interim order against her termination. While disposing off this petition, therefore, we require respondent No.1 to consider her case for extension beyond the age of 60 years upto a maximum of 63 years, as per its policy keeping in mind the observations made above and take a final decision thereon preferably within 4 weeks from the date of receipt of a copy of this order. Till the same is done and subject to the outcome thereof, her service shall continue as as present”.

6. We find that the controversy in the present group of writ petitions is squarely covered by the judgment dated August 19, 2019 rendered by this Court in **Anupama R. Dhukande** (supra). The present writ petitions, therefore, deserve to be allowed by declaring that the respondent no.1 was not justified in not considering the petitioners’ claims for extension of service beyond the age of 60 years only on the ground that they are female employees.

7. It is an admitted position that in these writ petitions, by virtue of an ad-interim relief granted by this Court, the petitioners continued till the age of 63 years and have since, in the interregnum, superannuated. The contesting parties are *ad idem* that the petitioners have since superannuated from the services of the respondent no.1 on attaining the age of 63 years and even otherwise nothing further survives for consideration.

8. No order as to costs.

9. Rule is disposed of in the above terms.

10. Nothing survives for consideration in the Notice of Motion. The same is disposed of.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)