IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1179 OF 2023

Mahindra CIE Automotive Ltd,
Stamping Division, Dist : Pune ...Petitioner

Versus

Pimpri Chinchwad Mathadi and Unprotected Workers
Board and Others ...Respondents

…

Mr. Varun Joshi a/w Mr. Chetan Alai, for Petitioner.
Mr. Meelan S. Topkar, for Respondents.

…

CORAM : SANDEEP V. MARNE, J.
DATE : SEPTEMBER 07, 2023.

P.C.:

1. By this Petition, Petitioner challenges order dated 21 September 2022 passed by the Pimpri Chinchwad Mathadi and Unprotected Workers Board (for short 'Board') by which the Board has directed revision of rates for Toli No.610 at 10% each year for a period 1 June 2020 to 31 May 2023.

2. I have heard Mr. Varun Joshi, the learned Counsel appearing for Petitioner. He would draw my attention to Paragraph 32 of the Scheme framed for the Respondent-Board. According to him for revising the rates, the Board is required to take into consideration three factors of cost of living,

prevalent conditions of service in comparable employments and capacity of the registered employers. He would submit that perusal of the orders passed by the Respondent-Board would indicate that no consideration is given to other two factors of prevalent conditions of service in comparable employments and capacity of the registered employers. He would therefore submit that the Board has passed an unreasoned order by taking into consideration solitary factor of inflation. He would submit that the order thus suffers from the vice of non-application of mind and being contrary to the provisions of the scheme, is liable to be set aside.

3. Mr. Topkar, the learned Counsel appearing for Respondent-Board would oppose the Petition and support the order passed by the Board. He would submit that the last agreement between the parties had expired on 31 May 2020, under which the employer had agreed to provide total 40% wage rise (20%-10%-10%). He would submit that as compared to the wage rise agreed for period ending on 31 May 2020, the Board has directed lesser wage rise of 10% for each year (total 30%) by the order dated 21 September 2022.

4. I have considered the submissions canvassed by the learned counsels for the parties.

5. Mr. Joshi would not be entirely wrong in contending that while ordering revision of wages, the Board is required to take into consideration the three factors of cost of living, prevalent conditions of service in comparable employments in the local areas as well as the capacity of the registered employers to pay. Additionally, the Board is also required to consider other circumstances which may be relevant in the case. Paragraph 32 of the Scheme provides thus :

> " Wages, allowances and other conditions of service of registered workers -
>
> (1) Without prejudice to the provisions of any award it shall be, unless otherwise specifically provided for in this scheme an implied condition of the contract between a registered worker (whether in the pool or on the monthly register) and registered employer that the rates, allowances and overtime, hours of work, rest intervals, leave with wages and other conditions of service shall subject to the provisions of sub-clauses (2)(3)(4)(5) and (6) be such as may be fixed by the Board for each category of workers.
>
> (2) For the purpose of fixing rates of wages, allowances and overtime, hours of work, rest intervals, leave with wages and other conditions of service (hereinafter collectively referred to as "the conditions of service") of registered workers or for revising or for modifying the same, the Board, shall call upon the associations of registered employers and trade unions of registered workers covered by this Scheme to make such representations as they may think fit as respects the conditions of service which may be fixed or revised or modified under this Scheme in respect of registered workers. If there is no such association of registered employers and union of registered workers, then such representations from registered employers and registered workers may be invited through notice published in such manner as the Board may think fit.
>
> (3) Every such representation shall be in writing and shall be made within such period as the Board may specify and shall state the conditions of

service, which in the opinion of the person making the representation would be reasonable having regard to the capacity of the registered employers to pay the same or comply with or to any other circumstances which may seem relevant to the person making the representation.

(4) The Board shall take into account the representations aforesaid, if any, and after examining all the material placed before it, shall fix or revise or, as the case may be modify the relevant conditions of service of the registered workers.

(5) In fixing or revising or as the case may be, modifying the conditions of service of the registered workers, the Board shall have regard to the cost of living, the prevalent conditions of service in comparable employments in the local areas, the capacity of the registered employers to pay and any other circumstances which may seem relevant to the Board.

(6) The conditions of service fixed, revised or, as the case may be, modified by the Board shall take effect either prospectively or retrospectively from such date as the Board may decide. The decision of the Board shall be communicated to the registered workers and registered employers in such manner as the Board thinks fit."

6. In the present case, the Board had invited the Petitioner's management for hearing before passing the impugned order. The Petitioner had participated in the first meeting and had admitted grant of total 40% wage rise during last three years period ending on 31 May 2020. The Board thereafter directed both the parties to remain present before Sub-Committee on 14 June 2022. The said meeting was not attended by Petitioner, which instead submitted a letter to the Board on 13 June 2022. By the said letter, Petitioner expressed inability to participate in the meeting convened on 14 June 2022 and requested for an adjournment. There is nothing on record to

indicate that the said letter was indeed received by the Board before passing order dated 21 September 2022. Be that as it may, even if it is assumed that the letter was submitted, perusal thereof would indicate that the Petitioner-Company did not produce any material before the Board to show that the wages that were being paid by it were comparable with the other industries in the local areas. No material was placed by the Petitioner-Company about its capacity to pay any wage rise. No other special circumstance was also placed by it before the Board. In that view of the matter, absence of the Petitioner-Company to attend the meeting on 14 June 2022 coupled with its failure to produce any material in support of determinative factors under Paragraph 32 of the Scheme, no fault can be found in the order passed by the Board dated 21 September 2022.

7. Also of relevance in the fact that the Revision directed by the Board is applicable during the period from June 2020 to May 2023. The period has already ended. It appears that now a fresh demand is made by the registered workers for further revision in the wages. It would be open for the Petitioner-Company to raise all points and produce the relevant material on record to oppose the further wage revision.

8. Since the order dated 21 September 2022 does not suffer from any infirmity, the Petition is devoid of merits and the same is dismissed without any order as to costs.

(SANDEEP V. MARNE, J.)