

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1896 OF 2024

Ramrao Pandurang Tope & Ors.

....Petitioners

V/S

V.I.P. Industries Limited & Anr.

....Respondents

WITH

WRIT PETITION NO.13961 OF 2016

V.I.P. Employees Union

....Petitioner

V/S

V.I.P. Industries Limited & Anr.

....Respondents

WITH

WRIT PETITION NO.1935 OF 2017

V.I.P. Employees Union & Ors.

....Petitioners

V/S

V.I.P. Industries Limited & Anr.

....Respondents

Mr. Sanjeev Kumar B. Deore *for the Petitioners in WP 1896 of 2024.*

Mr. Bennet D'costa a/w Ms. Jigansha Pandya for Petitioners in WP Nos.13961 of 2016 and 1935 of 2017.

Mr. S.C. Naidu a/w Mr. T.R. Yadav, Mr. Abhishek Ingle and Mr. Pradeep Kumar i/b Mr. C.R. Naidu & Co. *for Respondent No.1 in all WPs.*

Mr. Niraj Prajapati i/b Mr. Mahesh Shukla for Respondent No.2 in WP 1935 of 2017.

CORAM: SANDEEP V. MARNE, J.

DATE : 03 DECEMBER 2024.

P.C.:

1. The Writ Petition No.1896 of 2024 challenges order dated 16 May 2015 passed by the Industrial Court-cum-Appellate Authority under the provisions of Industrial Employment (Standing Orders) Act, 1946 read with Maharashtra Industrial Employment (Standing Orders) Rules, 1959. By order dated 16 May 2015, all that is done by the Industrial Court is to dispose of Appeal (SO) No.1 of 2014 filed by the Respondent No.1-Employer. The said Appeal was filed by Respondent No.1-Employer challenging the order certifying Standing Orders seeking to raise the retirement age of the workmen to 60 years. It appears that during pendency of Appeal (SO) No.1 of 2014 the recognized Union representing the workers in Respondent No.1-Union entered into settlement dated 14 May 2015 with the Employer in which the recognized Union agreed that the age of retirement of workmen shall continue to remain as 56 years. In bargain, it appears that the recognized Union sought various other benefits in favour of the workmen including the vital benefit of payment of gratuity at the rate of 22 days wages for every completed year of continuous service at the time of retirement. It appears that prior to the execution of the settlement, the Respondent No.1-Employer was paying gratuity as provided for in Payment of Gratuity Act at the rate of 15 days wages by every completed year of service. After execution of the settlement dated 14 May 2015 a joint pursis was filed before the Industrial Court by Respondent No.1-Employer as well as the recognized Union for

disposal of the Appeal in terms of the Memorandum of Settlement. In paragraph 3 of the compromise pursis, the recognized Union specifically agreed the age of retirement of the workmen should continue to 56 years. Based on the compromise pursis so filed, the Industrial Court proceeded to dispose of Appeal (SO) No.1 of 2014 filed by Respondent No.1-Employer by order dated 16 May 2015.

2. It appears that the recognized Union is subsequently aggrieved by disposal of the Appeal by order dated 16 May 2015 in terms of compromise pursis and has accordingly filed Writ Petition No.1935 of 2017 in this Court, in which following prayers are sought:

- “a) to issue a writ of certiorari or a writ in the nature of certiorari, or any other appropriate writ, order direction, calling for the records and proceedings relating to Appeal (S.O.) No.1 of 2014 and Order dated 16/05/2005 at Exhibit-X herein and after going into the legality, validity and propriety thereof to quash and set aside the impugned order;
- b) that this Hon’ble Court may be pleased to declare the retirement age in the Respondent No.1 Company at Nashik and Sinner will be 60 years with effect from the date of the Order of the Industrial Tribunal;
- c) that pending the hearing and final disposal of the petition to stay the effect and operation of the order dated 16/05/2005 and to further direct the Industrial Tribunal to decide the Appeal in accordance with law;
- d) to grant interim/ad-interim reliefs in terms of prayer clause (c) above;
- e) to award costs of this Writ Petition; and

- f) to pass such other or further orders as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.”

3. Thus the recognized Union is espousing cause on behalf of its members for restoration of age of retirement as 60 years in Writ Petition No.1935 of 2017.

4. The Petitioners herein (WP 1896 of 2024) are also members of the recognized Union on whose behalf compromise pursis was filed and who now is questioning the validity of such compromise in Writ Petition No.1935 of 2017.

5. Simultaneous with the challenge to the order dated 16 May 2015 disposing of the Appeal of the Respondent No.1 Union in Writ Petition No.1935 of 2017 through the recognized Union, it appears that 28 out of 32 Petitioners also questioned their termination on attaining the age of 56 years through various individual References made to the Labour Court. In this regard copy of Award dated 13 February 2023 passed by Labour Court, Nashik in Reference (IDA) No.9 of 2015 (VIP Industries Limited vs. Shri Ramrao Pandurang Tope) is placed on record alongwith Petition. All the 28 individual References have been answered in the negative by Awards declared on 13 February 2023. In those References the 28 Petitioners tried their luck to challenge the earlier settlement dated 24 October 2004 fixing the age of

retirement as 56 years and wanted the same to be raised to 60 years.

6. After the References were rejected on 13 February 2023 instead of challenging the said Reference orders, the said 28 Petitioners in addition to 4 Petitioners, who never questioned their retirement, are now advised to file the present Petition to challenge the order dated 16 May 2015 passed in Appeal (SO) No.1 of 2014. In my view, the present Petition cannot be entertained for variety of reasons. Firstly, there is gross and inordinate delay in filing the present Petition as the same is filed after lapse of 9 long years from the date of passing of order dated 16 May 2015. The justification that Mr. Deore, the learned counsel appearing for Petitioners puts forth for explaining the said delay is pendency of Writ Petition No.1935 of 2017 filed by the Union. In fact if Petitioners genuinely felt or believed that the Union was also espousing their cause through Writ Petition No.1935 of 2017, there is no occasion for them to separate themselves from the Union and file the present Petition individually. Secondly the prayers made in the present Petition are almost the same which are made in Writ Petition No.1935 of 2017 filed by the Union. The prayers in the present Petition (WP 1896 of 2024) are as under:

- “a) This Hon’ble Court be pleased to exercise the jurisdiction vested in it under Art 226/227 of Constitution of India and issue a writ of certiorari/mandamus or any other appropriate directions/writ/order whereby quashing and setting aside the order dated 16.05.2015 passed by Ld. Industrial Court and /or

- b) This Hon'ble Court be pleased to exercise the jurisdiction vested in it under Art 226/227 of Constitution of India and issue a writ of certiorari/mandamus or any other appropriate directions/writ/order whereby directing the Respondent No.1 to strictly implement the clause-27 of Model Standing Order dated 28.05.2014 and consider the retirement age of the Petitioners as 60 yrs in pursuant to certified Model Standing Order dated 28.05.2014.
- c) This Hon'ble Court be pleased to exercise the jurisdiction vested in it under Art. 226/227 of Constitution of India and issue a writ of certiorari/mandamus or any other appropriate directions/writ/order whereby directing the Respondent No.1 to pay the back wages of the Petitioner @ 9% p.a. by calculating their remaining service of 04 yrs from their date of compulsory/forceful retirement by the Respondent No.1.
- d) Any other relief may be granted in favour of this Intervenors."

7. This would be second ground for not entertaining the present Petition which raises very same prayers individually by the Petitioners when the same are already raised in Writ Petition No.1935 of 2017 filed through their Union.

8. However it is clarified that Petitioners shall continue to espouse their grievance with regard to the order dated 16 May 2015 as well as their right to continue in service upto the age of 60 years through the Union in Writ Petition No.1935 of 2017 and nothing observed in the present order shall come in the way of the Petitioners in Writ Petition No.1935 of 2017 while deciding the said Petition.

9. Writ Petition No.1896 of 2024 is accordingly **rejected** without any order as to costs.

10. List Writ Petition Nos.1935 of 2017 and 13961 of 2016 for final hearing on **16 January 2025**. Mr. D'costa has tendered Rejoinder in Writ Petition No.1935 of 2017, which is taken on record.

(SANDEEP V. MARNE, J.)

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