



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
WRIT PETITION NO.3388 OF 2017

PETITIONER
(Ori. Complainant)

: **Shri. Bhagwandas S/o Shankerlal Rathi,**
Aged about 70 years, Occ.: Retired, R/o
In front of Police Station, Ganesh Peth,
Nagpur.

..VERSUS..

RESPONDENTS
(Ori. Respondents)

- : 1. **The General Manager,**
Model Mills Nagpur. (Unit of N.T.C.
(M.N.) Ltd.) “Rajat Villa”, Near Old
Nav-Bharat Press, Opp. Sunderlal
Pyarelal Kirana Store, Near Jaishree
Cinema, Cotton Market, Nagpur.
2. **The Chairman-cum-Managing
Director,** National Textile Corporation
(Maharashtra North) Ltd., N. T. C.
House, 15, N. M. Marg, Ballard Estate,
Mumbai.

Mr S. A. Kalbande, Advocate for Petitioner.
Mr M. R. Puranik, Advocate for Respondents.

CORAM : **NANDESH S. DESHPANDE, J.**
RESERVED ON : **16th OCTOBER, 2025.**
PRONOUNCED ON : **3rd NOVEMBER, 2025.**

JUDGMENT

1. The present petition is filed assailing the judgment of the Industrial Court (Maharashtra) Nagpur Bench, Nagpur passed in Revision (ULP) No.211 of 2011. By way of the said judgment,

the learned Industrial Court rejected the revision filed by the present petitioner and confirmed the judgment and order of Judge, 3rd Labour Court at Nagpur passed in Complaint (ULP) Case No.206 of 2005 whereby, the Labour Court was pleased to reject the complaint filed by the petitioner.

2. Factual matrix of the case can be narrated as under :

2.1. The original complainant i.e. the petitioner herein filed a complaint under Section 28 read with Item No.1 of the Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as “the MRTU and PULP Act”). As per the averments made in the complaint, the complainant has diploma in Mechanical Engineering and since 1967, he was working with respondent No.1 – the General Manager, Model Mills, Nagpur as Departmental Assistant Grade – II. Initially, his appointment was made by the Model Mills, Nagpur as apprentice and after completion of the same, he was confirmed in the same post. The Model Mill was taken over by respondent No.2 – the Chairman-cum-Managing Director, National Textile Corporation

(Maharashtra North) Ltd. and they are governed by the provisions of the Bombay Industrial Relations Act, 1946 (hereinafter referred to as “BIR Act”). Therefore, it is contended that the petitioner acquired the status of employee within the meaning of Section 3(13) of the BIR Act and even the corresponding provisions of the MRTU and PULP Act.

2.2. It is further contended that time and again he has been served with show cause notice/s, chargesheets and has face suspension order/s, the history of which is pleaded in the complaint. But the same would not be germane for deciding the present matter. It is further pleaded that on 01.03.2005, the complainant received a letter from respondent No.1 *vide* reference No.894 of 2005 informing him that he would be reaching the age of superannuation i.e. 58 years on 31.05.2005 and his services would stand superannuated w.e.f. 31.05.2005 after office hours. The notice of superannuation was challenged in complaint before the learned Labour Court on a premise that the age of superannuation was not 58 years but 60 years and therefore the action of the management/respondent amounts to illegal termination.

2.3 The learned Labour Court after hearing both the parties and recording their evidence found that the complaint is without merit and therefore, it went on to dismiss the complaint. The learned Labour Court recorded a finding that the complainant has every right to challenge the notice of superannuation by filing the complaint. The learned Labour Court, therefore, went on to hold that it has territorial jurisdiction to entertain the complaint. However on merits, the learned Labour Court recorded a finding that the notice of superannuation issued to the complainant attaining the age of 58 years is however legal. The learned Labour Court in para 26 of its judgment recorded that in view of the judgment reported in 2007 (1) Mh.L.J. 28 and 2003 (2) Mh.L.J. 700, it is exclusive right of the employer to reduce the age of superannuation from 60 years to 58 years. The learned Labour Court, therefore, came to the conclusion that the respondent – employer was right in reducing the age of superannuation from 60 years to 58 years. On the basis above authority, the learned Labour Court rejected the complaint of the petitioner.

3. Being aggrieved with the judgment and order of the learned Labour Court, the petitioner filed a revision under Section

44 of the MRTU and PULP Act before the learned Industrial Court.

The learned Industrial Court in para Nos.7 and 8 of its judgment, after recording the submission of both the parties, stated that the employee is an employee within the meaning of Section 3(13) of the BIR Act and also that the Industrial Court has territorial jurisdiction to entertain the complaint. The learned Industrial Court in para Nos.9, 10 and 11 of its judgment has held as under :

“9. It is worthwhile to mention here that, the employee came up with a specific case before the Trial court that, he was the Mill Grade employee and not NTC employee. The age of superannuation of Mill Grade employee was 60 years, however, he has been superannuated on completion of 58 years of age, therefore, his superannuation is premature. As against this the defence of the Mill before the Trial court was that, because of the rolling back of the age of superannuation by Appropriate Government from 60 years to 58 years, the employee was rightly superannuated on reaching the age of superannuation i.e. 58 years, therefore, the same is legal and proper. It goes to show that, the main controversy was about the age of superannuation as well as rolling back of the superannuation age from 60 years to 58 years.

10. I may mention here that, the Trial court has resolved this controversy in the light of the decision of the Bombay High Court and appreciated that-

"Now the issue relied by respondent that it is exclusive right of the employer to reduce the age of superannuation from 60 years to 58 years. The

learned advocate for respondent distinguished the authority reported in 2007 (1) Mh.L.J. 28 (cited supra) on relying above authority reported in 2003 (2) Mh.L.J. 700 National Textile Corporation Ltd. Vs. Union of India and others and W.P. No.2736/03 between Haripratap Nandbhadur Singh Vs. The National Textile Corporation & Anr. In the Judgment by His Lordship in W.P. No. 2736/03 the authority reported in 2003 (2) Mh.L.J. 700 was referred. The facts of both the authorities (Cited supra) are applicable to present case. In case of Haripratap Singh, facts are: working by the employee as Mill Grade employee Junior Assistant with Model Mills, Nagpur. He was retired on attaining age of 58 years. On relying upon the above referred authority, his superannuation at the age of 58 years was held legal one."

"Now it is the contention of the complainant that he was not the employee of NTC. He was an employee of Model Mills, Nagpur as mill grade employee. Similar facts are appears in case of Haripratapsingh. He was mill grade employee with Model Mills, Nagpur. The facts are also came on record that Model Mills, Nagpur was taken over by the N.T.C. There was application of Sick Textile Undertakings Nationalization Act, 1974. In the year 1983, textile undertakings were taken over. The mills were nationalized under the Textile Undertakings Nationalization Act, 1995. All these facts are appearing in case of Haripratap Singhs case. According to complainant, he is a mill grade employee. Same case appears in case of Haripratap Singh. The exclusive right in view of both authorities relied for respondent is with the Management to reduce the age of superannuation from 60 years to 50 years. Thus, on application of both authorities to present case, the superannuation age of complainant becomes 58 years. Hence, on relying upon both the authorities, I held that superannuation of complainant is legal and proper."

11. *From the above discussion, it is clear that, due to the rolling back of the age of superannuation from 60 years to 58 years, the superannuation of the employee on attaining the age of superannuation is certainly legal and not by way*

of unfair labour practice. The Revision petitioner-employee miserably failed to demonstrate before the court that, there is any error apparent on the part of the Trial court in relying the decision of the Bombay High Court and the employee failed to demonstrate before the court that, those decision have no application to the present case. In view of this, it is very difficult to accept that, the Judgment and order under revision, suffers from the error apparent on the face of record, hence I answered this point in the negative.

4. The learned Industrial Court, therefore, went on to dismiss the revision filed by the complainant i.e. the petitioner herein. The judgment of the Labour Court as confirmed by the Industrial Court is assailed in the present Petition.

5. I have heard Mr. S. Kalbande, learned counsel appearing on behalf of the petitioner and Mr. M. R. Puranik, learned counsel for the respondents.

6. Admittedly, both the Courts below i.e. the learned Labour Court and the learned Industrial Court have concurrently held that it is the right of the employer to reduce the age of the employee from 60 years to 58 years. The learned counsel for the respondent relied upon the Division Bench of this Court in the case of Wasant Sheshrao Kale vs. National Textile Corporation (Maharashtra North) Ltd., Mumbai and another, reported in 2010

(3) Mh.L.J, 610. The Division Bench of this Court in that matter held that the issue that arises is, whether the petitioner's conditions of service including the age of superannuation of 60 years protected by Section 14 of the Nationalization Act, or whether they have been duly altered by the N. T. C. Rules in accordance with that Section, to 58 years. After framing this question, in para 10 of the judgment, the Division Bench of this Court recorded that we have no hesitation in coming to the conclusion that the rules do not exclude the petitioner's services from the purview of their operation.

7. In the said matter it was contended that Section 14 of the Textile Undertaking (Nationalization) Act protects the age of superannuation until duly altered by the National Textile Corporation and since the same is not done the age of superannuation cannot be altered to the detriment of the employee. The learned Division Bench however negated the contention and held that the conditions of service of the petitioner including the age of retirement have been duly altered by enactment of 'National Textile Corporation(Maharashtra North) Limited, Recruitment and Promotion Rules,1985'. For reaching

this conclusion the Division Bench relied upon rule 2.2. of the said rules which reads as under:

2.2 The following categories shall also be excluded from the purview of these rules:

- a) Workers/operators borne on the muster of the mills*
- b) Clerical/semiclerical staff of the mills*
- c) Watch and ward personnel of the mills*
- d) Employees of retail outlets/show rooms and depots including erstwhile employees of marketing division.*

8. It held that the only those categories as enumerated in the said rule stand excluded and none other. It further held that the agreement between the erstwhile model mill and the union cannot be held to be an industry wise agreement so as to exclude it by taking recourse to rule 2.3 of the said rules which reads as under:

2.3: These rules shall not apply in respect of any posts for which any industry wise agreement/award/undertakings are applicable from time to time.

The rules do not apply *vide* Clause 2.3 only in respect of posts for which there is any industry-wise agreement. It further

went on to hold that the agreement between erstwhile Model Mills and the Union can by no stretch of imagination be held to be an industry-wise agreement as is commonly understood in Industrial Law. It is merely an agreement between the Union and that particular Industrial Establishment i.e. the Model Mills. There is nothing in the agreement which makes it applicable to the entire industry either at the Local level, the State level or the National level. In these circumstances, the learned Division Bench held that the conditions of services have been duly altered by the rules within the meaning of Section 14. Thus, it went on to dismiss the petition by holding that the petitioner's conditions of service stood duly altered by virtue of the Rules framed by the N.T.C. The said alteration is a due alteration under Section 14 of the Nationalization Act. Furthermore learned single judge of this Court in WP 2360/22 Shri C.R.Dhuri and others Versus National Textile Corporation has also taken the same view.

9. The reliance placed by the learned counsel for the petitioner on a judgment reported in 2009 (3) Mh.L.J. 259 is altogether on different set of facts and is not applicable in the

present matter in view of the authoritative pronouncement of the Division Bench.

10. Thus in my view, the issue stands covered by the operative pronouncement of this Court in the said matter. Furthermore, there are concurrent findings recorded by the Courts below which cannot be said to be perverse in view of the above discussion. The petition, therefore, lacks merits and hence, it is liable to be dismissed.

ORDER

1. The petition is **dismissed**.
2. Parties to bear their own costs.
3. Rule stands discharged.

(NANDESH S. DESHPANDE, J.)

TAMBE.