



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 8026 OF 2025

MMP Industries ltd. At Village Maregaon, Post Shahapur,
Tahsil & District Bhandara, through its Senior Vice President.

PETITIONER

VERSUS

Siddharth Shankar Khobragade, Occ: Service,
R/o Ganesh Ward Shahapur, Tahsil & District Bhandara.

RESPONDENT

WITH

WRIT PETITION NO. 8039 OF 2025

MMP Industries ltd. At Village Maregaon, Post Shahapur,
Tahsil & District Bhandara, through its Senior Vice President.

PETITIONER

VERSUS

Shamrao Ramchandra Bawane, Occ: Service, R/o Mu.
Gopiwada, Po. Shahapur, Ambedkar Ward, Bhandara.

RESPONDENT

Shri R.B. Puranik, Senior Advocate with Shri M.R. Puranik, counsel for the
petitioner.
Shri R.V. Bhanarkar, counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE ON WHICH ARGUMENTS WERE HEARD : FEBRUARY 17, 2026

DATE ON WHICH JUDGMENT IS PRONOUNCED : MAY 06, 2026

JUDGMENT

Heard. **RULE.**

2. The petitioner in both the petitions has assailed the order passed by Industrial Court, Bhandara in complaints filed by the employees by which the application for interim relief filed by the employee was allowed and the petitioner is directed not to superannuate the respondent on attaining the age of 58 years, during the pendency of the complaint. Since controversy involved in both the petitions is identical and same arguments are advanced by both the parties the matters are decided by this common Judgment.

3. The petitioner is a Manufacturing Company (for short, 'the petitioner-Company') registered under the Companies Act, 1956 which is involved in manufacturing and sale of aluminium powder. The employees of the petitioner-Company are represented by the Aluminium Powder Kamgar Sangh, Shahapur which is a registered union. The petitioner-Company has, from time to time i.e. from 1999 till 2018, signed the agreements/settlements with the representatives of the employees. In these agreements, the petitioner-Company had given wage rise and better conditions of service and the age of retirement of employees was fixed at 58 years. The last settlement of agreement was signed between the petitioner-Company and the representatives of the employees on 14.09.2018 which was to remain in force till 31.03.2022 in which the age of retirement was again fixed at 58 years only.

In the year 2021, the Union gave a charter of demand/notice of change in the agreement which was not fulfilled by the petitioner-Company and the proceedings regarding conciliation failed. Pertinently, the last settlement/agreement dated 14.09.2018 has been still in force and the parties are governed by it. In these circumstances, the petitioner-Company sent a communication dated 03.10.2025 to Siddharth Khobragade, respondent in Writ Petition no.8026 of 2025 proposing to superannuate the respondent after completing the age of 58 years on 05.11.2025 and similar communication dated 14.10.2025 to Shyamrao Bawane, respondent in Writ Petition no.8039 of 2025. The said communication came to be challenged by the respondent before the Industrial Court *vide* Complaint ULP No.55 of

2025 (Siddharth Khobragade Versus MMP Industries Ltd.) and Complaint ULP No.54 of 2025 (Shamrao Bawane Versus MMP Industries Ltd.). In these complaint cases, the employees filed an application for interim relief at Exhibit U-2. The Industrial Court allowed the Interim applications by order dated 04.11.2025 in Complaint (ULP) No.55 of 2025 and order dated 11.11.2025 in Complaint ULP No.54 of 2025 and restrained the petitioner-Company from retiring the respondent on attaining the age of 58 years. Being aggrieved by these orders, the petitioner-Company has filed the instant petitions.

4. Shri. R.B. Puranik, learned Senior Advocate for the petitioner submitted that the petitioner-Company is governed by the provisions of the Maharashtra Industrial Relations Act, 1946 and the service conditions of its employees can be changed by entering into agreement or settlement. He pointed out that the five settlements/agreements signed between the petitioner-Company and the Union of the employees from the year 1999 to 2018 clearly reveal that the age of superannuation of the employees has been fixed at 58 years and therefore the conclusion arrived at by the Industrial Court is contrary to the settlement and are perverse in nature, which needs to be quashed and set aside. He submitted that the complaint in relation to discharge or dismissal of an employee are covered under Item I of Schedule IV of The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short, 'the Act of 1971') and that under section 7 of the Act of 1971, the Labour Court had got the exclusive Jurisdiction to decide the complaint and therefore the

proceedings before the Industrial Court are without Jurisdiction. In support of his submissions, he relied on the following judgments.

- i. *Sunflag Iron And Steel Company Ltd. Warthi Versus Sunflag Iron & Steel Mazdoor Sabha, Warthi & Another* [2016(1) Mh.L.J. 794].
- ii. *Air India Employees Union Versus Air India Ltd. & Another* [2014(3) Mh.L.J. 599].
- iii. *Life Insurance Corporation of India Versus D.J. Bahadur & Others* [(1981) 1 SCC 315].
- iv. *Tulsiram K. Gothad Versus Superintendent, Mahatma Gandhi Memorial Hospital, Mumbai & Another* [2001(3) Mh.L.J. 662].
- v. *Tulsiram K. Gothad Versus The Superintendent, Mahatma Gandhi Memorial Hospital & Another* [2007 III CLR 718].
- vi. *Zilla Parishad, Jalgaon Versus Maya Tukaram Sonawane* [2016(2) Mh.L.J. 66].
- vii. *Lokmat Newspapers Pvt. Ltd. Versus Shankarprasad* [(1999 6 SCC 275].
- viii. *Indo Count Industries Ltd. Versus Shankar Mahadev Takmare; Sanjay Pandurang Ghorpade* [2025 LawSuit (Bom) 750].
- ix. *Rajneesh Khajuria Versus Wockhardt Ltd. & Another* [2020 I CLR 546].

5. By relying on judgment of the coordinate bench of this court, in the matter of *Sunflag Iron and Steel Company Ltd., Warthi* (Supra), the learned counsel for petitioner submitted that the controversy involved in the complaint being related to the intended discharge of the employee, the jurisdiction was available under Item I of Schedule IV of the Act of 1971 as it would deal with a case of colourable exercise of power by the employer and as such the jurisdiction to entertain the complaint lies with the labour Court.

6. By relying on judgment in the matter of ***Air India Employees Union*** and ***D.J. Bahadur & Others*** (supra), he submitted that the settlement arrived at between the parties would govern the situation and continue to bind the parties since the parties have taken advantage of wage rise based on the settlement and as such the grievance raised by the employees, contrary to the terms of settlement, is without any substance. By relying on judgment of this Court in ***Tulsiram K. Gothad*** (supra), he submitted that even the terms of appointment order constitutes an agreement within the meaning of Clause 27 of the Model Standing Orders and as such the parties are bound by the terms of the appointment order. He placed reliance on the judgment in ***Maya Tukaram Sonawane*** (supra) and submitted that granting a relief in the nature of continuing the employee beyond 58 years amounts to grant of a final relief at the interim stage.

7. Per contra Shri R.V. Bhanarkar, learned counsel for the respondent opposed the petition and supported the impugned judgments. *Firstly*, he submitted that the petitioner-Company has not raised issue of jurisdiction before the Industrial Court and therefore contentions raised in the instant petitions are not sustainable. *Secondly*, he submitted that the Industrial Court in paragraph 10 of the impugned judgment has referred to the judgment of this Court in ***Sunflag Iron and Steel Company Ltd. Warthi*** (supra) and has observed that the issue as to whether the discharge amounts to dismissal or retirement would be a matter of evidence. *Thirdly*, he submitted that the notice dated 03.10.2025 and 14.10.2025 issued by

the petitioner-Company amounts to misconduct as the Model Standing Orders prescribes that the age of superannuation of the employees is 60 years. He submitted that since the remedy for filing the complaint lies under Schedule IV Item 9 of the Act of 1971, the Industrial Court has jurisdiction to decide the complaint filed by the respondent. In view of above, the learned counsel for the respondent prayed for dismissal of the petition.

8. In support of his submission learned counsel for respondent relied upon the following judgments:-

a. *Maharashtra Elektros melt Limited Officers Association, Chandrapur & Another Versus Maharashtra Electros melt Ltd. (Subsidiary of Steel Authority of India Ltd. Chandrapur* [2015(3) Mh.L.J. 263].

b. *Shyam Lal Versus State of Uttar Pradesh & Another* [(1954) 1 SCC 572].

c. *Kashmiri Lal Sharma Versus Himachal Pradesh State Electricity Board Ltd. & Another* [Special Leave to Appeal (C) No(s).1091-1092/2023]

9. The learned counsel for respondent relied on the judgment in *Maharashtra Elektros melt Limited Officers Association, Chandrapur & Another* (supra) and submitted that the employees cannot be forced to retire at the age of 58, as it is contrary to the Model Standing Orders, which provide 60 years as the age of retirement. He submitted that the change in conditions of service contrary to the Model Standing Orders is

unsustainable in law. He placed reliance on the judgment of the Hon'ble Supreme Court in *Shyam Lal* and *Kashmiri Lal Sharma* (supra) and by pointing out the legal position submitted that the purported termination of service of the employees by way of compulsory retirement amounts to dismissal or removal from service and requires compliance with provisions of Article 311 of the Constitution of India and in view of the manner in which the employer is attempting to terminate the services, the same clearly amounts to violation of Service Rules and thus unsustainable in law.

10. In the backdrop of above mentioned submissions, rival contentions fall for my consideration.

11. It has to be noted that the employees have filed the complaint cases before the Industrial Court alleging commission of Unfair Labour Practice under Item 9 of Schedule IV of the Act of 1971. The controversy raised in the complaint is about the legality of communications by which the employer has proposed to superannuate the respondents on attaining the age of 58 years. The issue as to whether the communication is justified in view of the terms of settlement or is unsustainable in view of the Model Standing Orders is subject matter of adjudication in the complaint.

12. The primary contentions raised by the petitioner in the instant petition is about jurisdiction of the Industrial Court to entertain the complaint which is a grievance related to discharge of the employees. In this regard, the petitioner's contention is, since the communications which are impugned in the complaint are in the nature of an intended discharge

of the employees, the jurisdiction in that regard is available under Item 1 of Schedule IV of the Act of 1971. This argument is opposed by the counsel for the respondents by contenting that the employer has violated the Service Rules provided in the Model Standing Orders by issuing the impugned communications and therefore had violated the service conditions for which remedy lies under Item 9 of Schedule IV of the Act of 1971 and with this contention, the jurisdiction of the Industrial Court is attempted to be justified.

13. It has to be noted that a similar controversy has earlier fallen for consideration before this Court in *Sunflag Iron and Steel Company Ltd., Warthi* (supra) on which learned counsel for petitioner has placed heavy reliance. It has to be noted that in the said matter the issue about jurisdiction of the Industrial Court to entertain a complaint filed by the employee challenging the action of the employer seeking to superannuate the employee from service on attaining age of 58 years was the subject matter of consideration. The employees in that case had also claimed that they were entitled to continue in the service till the age of 60 years and the communication issued by the employer was in breach of the terms of the appointment order. In view of this controversy, the employees had filed complaint before the Industrial Court under Section 28 of the Act of 1971 and in this background, the Coordinate Bench of this Court had considered the issue about jurisdiction.

14. While deciding the said issue, the Coordinate Bench of this Court

has considered a similar question which was decided by the Division Bench of this Court in ***Ashok Vishnu Kate Versus M.R. Bhope*** [1992(1) Mh.L.J. 473] as referred in paragraph 8 of the said judgment and also by considering the legal position as laid down by the Hon'ble Supreme Court in ***Hindustan lever Ltd. Versus Ashok Vishnu Kate & Others*** [(1995) 6 SCC 326], as referred in paragraph 9 of the said judgment, has recorded its observations on the said issue. As regards the issue about jurisdiction under Schedule IV of the Act of 1971, the observations are recorded in paragraph 11 of the said judgment which is reproduced below:-

“11. The contention that there was failure to implement the settlement or agreement due to which provisions of Item 9 were being invoked is urged on the basis of the decision in S.G. Chemicals (Supra). Said case considers violations of provisions of section 25-O of the Industrial Disputes Act, 1947. However, considering the facts of the present case, the result being one of the intended discharge, the jurisdiction in that regard was available under Item 1 of Schedule IV. Item 1(b) would cover a case of colourable exercise by the employer of his right which is not in good faith.”

15. On perusal of the contentious issue decided by the Coordinate Bench in ***Sunflag Iron and Steel Company Ltd., Warthi*** (supra), it clearly appears that the controversy involved in the instant petitions is identical and needs to be decided based on the said adjudication. In the instant matters, the communications which are challenged by the respondents by way of their complaint under Section 28 of the Act of 1971 are also in the nature of an intended discharge and therefore it has to be held that the jurisdiction in that regard was available under Item 1 of

Schedule IV of the Act of 1971. The controversy would be covered under Item 1(b) of Schedule IV of the Act of 1971, which deals with a case of colourable exercise by the employer of its right which is not in good faith.

16. Thus, the controversy involved in the instant matter has to be decided by considering the issue of jurisdiction as raised by the petitioner. The contentions of the parties with regard to merits of the matter, about legality of the impugned communications, whether they are contrary to the Model Standing Orders or otherwise, would be subject matter of evidence in the complaint cases.

17. In the light of the above mentioned factual and legal aspects, the contentions canvassed on behalf of the petitioner deserve to be accepted as regards the issue of jurisdiction of the Industrial Court. The complaint cases filed by the employees before the Industrial Court are not maintainable and are required to be transferred to the Labour Court for its due consideration. It is also crucial to note that since the employees are in service as on today, they are entitled to invoke the jurisdiction of the Labour Court for seeking appropriate interim relief for protection of their service. Hence, the following order is passed:-

- I. The writ petitions are allowed.
- II. The order dated 04.11.2025 passed by the learned Member, Industrial Court in Complaint ULP No.55/2025 is quashed and set aside on the question of jurisdiction. Similarly, the order

dated 11.11.2025 passed by the learned Member, Industrial Court in Complaint ULP No.54/2025 is quashed and set aside on the question of jurisdiction.

- III. Complaint ULP Nos.54 of 2025 and 55 of 2025 stand transferred to the Labour Court, Bhandara. The parties are at liberty to amend their pleadings.
- III. As the employees in question are continuing in service by virtue of the interim orders passed by the Industrial Court, their employment shall continue for a period of six weeks from today. The employees i.e. the respondents in each of the petition is at liberty to seek appropriate interim order under the provisions of Section 30(2) of the Act of 1971 before the Labour Court, Bhandara.
- IV. It is made clear that this Court has not examined the rival submissions on merits of the dispute. If any application for interim relief is filed by the employees, the same shall be considered on its own merits.

- 18. Rule is made absolute in the aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)