IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE K.S.BHARATH KUMAR

WRIT APPEAL NO.425 OF 2023 (L-RES)

BETWEEN:

WIPRO INFRASTRUCTURE ENGINEERING
(A DIVISION OF WIPRO ENTERPRISES LIMITED)
PEENYA, BANGALORE-560 058
REPRESENTED BY MR. SURESH PUGALENTHI
GENERAL MANAGER-HR
COMPANY INCORPORATED UNDER COMPANIES ACT
1956 AND IS ENGAGED IN
PRODUCING HYDRAULIC CYLINDERS

...APPELLANT

(BY SRI. VASUKI K.N., ADV. FOR
SRI. B. C. PRABHAKAR, ADV.)

AND:

1. ADDITIONAL LABOUR COMMISSIONER
(ADMINISTRATION) AND APPELLATE AUTHORITY
UNDER INDUSTRIAL EMPLOYMENT
(STANDING ORDERS) ACT
KARMIKA BHAVANA

Digitally signed by PAVITHRA N
Location: High Court of Karnataka

BANNERGHATTA ROAD
BANGALORE-560 029

2. WIPRO KARMIKA SANGHA
9B-10A, 1ST PHASE
PEENYA INDUSTRIAL AREA
BANGALORE-560 058
REPRESENTED BY ITS GENERAL SECRETARY

…RESPONDENTS

(BY SRI. UDAY HOLLA, SENIOR COUNSEL FOR
SRI. K.S.SUBRAMANYA, ADV. FOR C/R2;
SRI. BYREGOWDA N., AGA FOR R1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO QUASH THE ORDER DATED 03.03.2023 PASSED BY THE LEARNED SINGLE JUDGE IN WP No.15615/2016 AND ALLOW THE WP FILED BY THE APPELLANT IN THE INTEREST OF JUSTICE AND EQUITY.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 05.10.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE K.S.BHARATH KUMAR

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This Writ Appeal is filed challenging the Order dated 03.03.2023 passed by the learned Single Judge in Writ Petition No.15615/2016 (L-RES).

2. We have heard Shri. Vasuki K.N, learned counsel appearing for the appellant, Shri. Uday Holla, learned senior counsel as instructed by Shri. K.S. Subramanya, learned counsel appearing for respondent No.2 and Shri. Byregowda N, learned Additional Government Advocate appearing for respondent No.1.

3. The learned counsel appearing for the appellant submits that the appellant is engaged in the manufacture of hydraulic cylinders and components. Clause 23 of the Certified Standing Orders governing the workmen of the appellant prescribed the age of retirement as 58 years. Respondent No.2 – Wipro Karmika Sangha submitted an application seeking modification of the Certified Standing Orders so as to enhance the age of retirement from 58 years

to 60 years. By order dated 07.08.2013, the Certifying Officer rejected the application for modification.

4. An appeal was preferred by respondent No.2 before respondent No.1 – Appellate Authority. By order dated 03.03.2014, the Appellate Authority set aside the order of the Certifying Officer and permitted modification of the Standing Orders by enhancing the age of retirement from 58 years to 60 years. The said order was challenged by the appellant in Writ Petition No.12137/2014. By order dated 08.07.2015, the writ petition was allowed and the matter was remanded to the Appellate Authority for fresh consideration, with a direction to visit the factory and ascertain whether the nature of work carried on therein was hazardous or arduous. It was also observed that, in the event the Appellate Authority allowed the appeal, the amendment would come into force with effect from 03.03.2014. The appellant challenged the said observations in Writ Appeal No.2482/2015. The Division Bench of this Court by order dated 07.11.2015, held that the amendment,

if made, would operate prospectively and also permitted the parties to lead evidence before the Appellate Authority.

5. Upon remand, both sides adduced evidence and the Appellate Authority also inspected the appellant's Institution. By order dated 04.03.2016, the Appellate Authority again allowed the appeal, set aside the order of the Certifying Officer and permitted modification of Clause 23 of the Certified Standing Orders, enhancing the retirement age from 58 years to 60 years. Aggrieved thereby, the appellant instituted Writ Petition No.15615/2016. By interim order dated 29.03.2016, the operation of the order passed by the Appellate Authority was stayed.

6. During the pendency of the writ petition, the learned Single Judge considered it necessary to obtain expert opinion as to whether the nature of work in the appellant's Institution was arduous or hazardous. By order dated 19.07.2021, two technical experts were appointed to inspect the Institution and submit their reports. Pursuant thereto, the experts inspected the Institution and submitted

their respective reports before the Court. The experts rendered divergent opinions. Shri. Ashok Christodas Samuel Raj opined, inter alia, that the work was arduous for older workmen and involved hazardous aspects, whereas Shri. P.N. Vidhu Narayanan opined that the work was neither arduous nor hazardous and that the Institution did not fall within the category of a heavy industry.

7. The learned Single Judge, upon consideration of the material on record, noticed that the Appellate Authority had, after remand, recorded evidence and inspected the appellant - Institution and had found that the manufacturing process was substantially automated, that the nature of work did not involve hard or dangerous work requiring significant physical strength and that the workmen were physically and mentally fit to continue in employment up to the age of 60 years. The learned Single Judge also considered the divergent reports of the two technical experts appointed by the Court. While one expert opined that the work was arduous for older workmen and hazardous, the other, having regard to the use of CNC machines, cranes,

robotic machinery, forklifts, safety devices and automated or semi-automated processes, opined that the work was neither arduous nor hazardous. It was also noticed that the appellant - Institution was not registered as a hazardous industry under the Factories Act, 1948 and that no material had been placed to demonstrate that the findings recorded by the Appellate Authority regarding the physical, mental and health condition of the workmen were perverse.

8. The learned Single Judge further held that the wage structure and financial implications constituted some of the factors relevant for determining the age of retirement and that no material had been placed to establish that the retirement benefits and other amenities available to the workmen were sufficient to mitigate the hardship arising from retirement at the age of 58 years. Referring to the decisions of the Apex Court and this Court concerning improvement in standards of health, increased longevity and the general trend towards enhancement of the age of retirement, as also the amendment to the Model Standing Orders enhancing the retirement age to 60 years, the

learned Single Judge noticed that the said amendment did not automatically alter the Certified Standing Orders of Institutions where the retirement age had been fixed at 58 years and that the question was required to be considered in the peculiar facts of each Institution. Accordingly finding no ground for interference with the order of the Appellate Authority, the writ petition was dismissed.

9. The learned counsel appearing for the appellant contends that the order of the learned Single Judge is unsustainable since the technical evidence obtained during the pendency of the writ petition has not been properly considered. It is contended that the very purpose of appointing the technical experts was to ascertain whether the nature of work in the appellant's Institution was arduous or hazardous and the experts having rendered divergent opinions, the learned Single Judge ought to have considered whether either of the reports was to be accepted or whether the matter required reference to a third expert. It is submitted that, having called for independent technical opinion, the divergent views could not have been left

unresolved by merely relying upon the findings of the Appellate Authority. It is further contended that the learned Single Judge neither accepted nor rejected either of the divergent expert opinions and thereby defeated the very purpose for which the expert reports had been called for. It is also contended that a Court exercising judicial review cannot substitute its own assessment for technical expert opinion and that a third expert ought to have been appointed.

10. It is further contended that the learned Single Judge erred in placing reliance upon the findings of the Appellate Authority regarding the nature of work in the Institution. It is submitted that the very necessity for obtaining independent technical opinion demonstrated that the findings of the Appellate Authority could not, by themselves, furnish a sufficient basis for sustaining the enhancement of the retirement age. It is further contended that the authorities under the Industrial Employment (Standing Orders) Act, 1946 exercise adjudicatory and quasi-judicial powers and were required to independently

examine the fairness and reasonableness of the proposed modification.

11. It is also contended that there is no uniform age of retirement applicable to all industrial Institutions and that the appropriate retirement age necessarily depends upon the nature of work and circumstances prevailing in each Institution. It is further contended that even the Model Standing Orders, as applicable at the relevant point of time, contemplated retirement at 58 years or at such other age as may be agreed upon and therefore the question of enhancement could not have been determined merely on the basis of general principles or the prevailing trend towards enhancement of retirement age. It is submitted that the nature of work is itself a material consideration and that the opinion of Shri. Ashok Christodas Samuel Raj, to the effect that the work was arduous for older workmen and hazardous, constituted a special circumstance justifying retention of the retirement age at 58 years.

12. The learned counsel appearing for the appellant places reliance on the following decisions:-

- ***Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corporation Ltd. & Ors*** reported in ***AIR 1990 SC 1801***;

- ***The Management of Hindalco Industries Ltd. v. General Secretary, Indal Employees' Union*** reported in ***MANU/KA/2095/2023***;

- ***Guest, Keen, Williams Private Limited v. P.J. Sterling and Ors*** reported in ***AIR 1959 SC 1279***;

- ***The Management of Grasim Industries Ltd. v. The General Secretary, Harihar Polyfibers Employees Union & Ors*** reported in ***MANU/KA/3685/2025***;

- ***Central Council for Research in Ayurvedic Sciences & Ors. v. Bikartan Das & Ors*** reported in ***AIR 2023 SC 4011***, and

- ***Jeewanlal (1929) Ltd. v. The Workmen & Ors*** reported in ***AIR 1972 SC 1210***.

13. The learned senior counsel appearing for respondent No.2 contends that the enhancement of the age of retirement from 58 years to 60 years is fully justified having regard to the nature of work in the appellant's Institution and the evidence on record. It is contended that the manufacturing operations are substantially automated and do not involve such physical exertion as would render

the work arduous or hazardous for employees beyond the age of 58 years. Reliance is placed on the evidence of the appellant's own witness, Shri. J. Venkatesh, Head of Operations, who admitted in cross-examination that substantial parts of the manufacturing process are automated, that physical effort in CNC operations is minimal, that cranes and automatic machines are used for loading and unloading, that employees approaching the age of 58 years had not complained of loss of eyesight or physical strength and that even retired employees were, in some instances, engaged on contract basis to perform the same work. It is, therefore, submitted that the appellant's own evidence does not support its contention that continuation of the workmen beyond the age of 58 years would be unsafe.

14. It is further contended that the Appellate Authority, after appreciating the oral and documentary evidence and personally inspecting the Institution, recorded a categorical finding that the workmen were physically and mentally capable of continuing in employment up to the age

of 60 years and accordingly permitted modification of Clause 23 of the Certified Standing Orders. It is also pointed out that the retirement age in comparable Institutions has been enhanced to 60 years and that, with improvement in health standards and longevity, there has been a general trend towards enhancement of the age of retirement.

15. It is further contended that the State Government, by the Karnataka Industrial Employment (Standing Orders) (Amendment) Rules, 2017, amended the Model Standing Orders by enhancing the retirement age to 60 years. The challenge to the said amendment was unsuccessful and the writ appeals arising therefrom were subsequently withdrawn. It is therefore contended that the enhancement sought by respondent No.2 is consistent with the statutory development as well as the prevailing judicial decisions. It is submitted that the learned Single Judge, after considering the evidence, the findings of the Appellate Authority, the nature of the manufacturing process and the decisions of the Apex Court and this Court, rightly declined to interfere with the order enhancing the age of retirement.

16. The learned senior counsel appearing for respondent No.2 places reliance on the following decisions:-

- ***Guest, Keen, Williams Pr. Ltd, Calcutta v. P.J. Sterling & Ors*** reported in ***AIR 1959 SC 1279***;
- ***Management of M/s Burmah Shell Oil Storage & Distributing Company of India Ltd. v. Workmen*** reported in ***1970 1 LLJ 363***;
- ***Talang (G.M.) & Ors. v. Shaw Wallace & Co. Ltd and Another*** reported in ***AIR 1964 SC 1886***;
- ***British Paints (India) Ltd. v. Its Workmen*** reported in ***AIR 1966 SC 732***;
- ***Hindustan Antibiotics Ltd. v.Their Workmen & Ors*** reported in ***AIR 1967 SC 948***;
- ***Tej Bahadur Ram v. State of U.P. & Ors*** reported in ***(2006) 7 SCC 660***;
- ***Indian Oil Corporation Ltd. v. Joint Chief Labour Commissioner & Appellate Authority*** reported in ***1990 ILR (2) Del 270***;
- ***M/s. Kennametal India Ltd. v. Kennametal India Employees Association*** reported in ***2012 SCC OnLine Kar 8839***;

- ***M/s. Kennametal India Ltd. v. Kennametal India Employees Association*** decided in ***W.A. No.2395/2012 on 29.05.2014***;

- ***M/s. United Breweries Ltd. v. Karnataka Engineering & General Workers Union and Ors.*** decided in ***W.P. No.47312/2013 on 10.01.2017***;

- ***M/s. Aditya Auto Products & Engineering India Pvt. Ltd. v. M/s. Aditya Auto Products (NTTF) Employees Union*** decided in ***W.A. No.1/2019 on 17.07.2019***;

- ***The Management of Federal Mogul Goetze India Pvt. Ltd. v. Additional Labour Commissioner & Ors.*** reported in ***2021 SCC OnLine Kar 14708***;

- ***Sangram Singh v. Election Tribunal, Kotah & Another*** reported in ***AIR 1955 SC 425***;

- ***Syed Yakoob v. K.S. Radhakrishnan*** reported in ***AIR 1964 SC 477***;

- ***Rohtak and Hissar District Electric Supply Co. Ltd. v. State of Uttar Pradesh & Ors*** reported in ***AIR 1966 SC 1471***;

- ***Karnataka Employers Association & Ors. v. State of Karnataka & Ors*** passed in ***W.P. Nos.14576-14577/2017 and connected matters*** by order ***29.06.2018***, and

- ***Karnataka Employers Association & Ors. v. State of Karnataka & Ors*** passed in ***W.A. Nos.2304-2309/2018 and connected matters*** by order ***01.10.2020***.

17. The main question raised by the learned counsel appearing for the appellant is that the learned Singe Judge, having decided to refer the question whether the employment in the appellant's concern is hazardous or arduous, could not have then ignored the contradictory reports furnished by two experts and decided the issue considering only the question whether the decision of the respondents requires interference. It is submitted that the question whether the nature of employment is arduous remained inconclusive in view of the conflicting decisions and therefore, the matter should have been referred to a third expert for opinion.

18. On a consideration of the contentions advanced, we are unable to agree with the said proposition. The writ petition had been filed challenging an order passed by the appellate authority with regard to raising of the upper age limit of employees in the appellant's workplace. What could

have been considered by the Constitutional Court was specifically the correctness or otherwise of the order passed by the statutory authority. The exercise by the learned Single Judge to find out whether the duties in the appellant's - Institution is arduous or not was beyond the scope of an adjudication under Article 226 of the Constitution of India and entered into the realm of disputed questions of fact. The fact that an interim order had been passed, seeking an expert opinion regarding the nature of the engagement and the question remained unresolved, cannot be a reason to hold that the exercise of jurisdiction by the learned Single Judge, within the confines of what is expected in judicial review under Article 226 of the Constitution of India, requires an interference.

19. Referring to the decision of the Apex Court in ***Guest, Keen Williams Private Limited Vs. P.J. Sterling***'s case (supra) the Deputy Labour Commissioner had considered the questions as to the nature of work assigned to the employees, their wage structure, retirement benefits and the general practice prevailing in the industry, and came

to the conclusion that the retirement age cannot be increased. However, in appeal, the Additional Labour Commissioner, as appellate authority under the Industrial Employment Standing Orders, found that the finding of the original authority that the retirement age was fixed at 58 years in the settlement dated 23.04.2008 was incorrect. Further, it was found that the certification of the standing orders fixing the age as 58 years was done several years back. It was found that in neighbouring industries of the respondent establishment also, retirement age was increased from 58 years to 60 years. Due to the progress in health care, it was found that workmen are physically capable of working up to the age of 60 years. It was in the said circumstances that the appellate order was passed increasing the retirement age from 58 years to 60 years. The learned Single Judge considered all relevant aspects of the matter and found that the enhancement was after looking into all relevant issues.

20. We notice that the learned Single Judge has considered the factual and legal aspects of the matter and

has come to the conclusion that the order impugned in the writ petition does not require interference.

21. Having considered the contentions and the findings of the learned Single Judge, we find no material to interfere in the exercise of jurisdiction by the learned Single Judge in this intra-Court appeal. The appeal fails and the same is accordingly ***dismissed***.

All pending interlocutory applications stands *disposed of*.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(K.S.BHARATH KUMAR)
JUDGE

PN