



**IN THE HIGH COURT OF KARNATAKA**

**KALABURAGI BENCH**

**DATED THIS THE 23<sup>RD</sup> DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY**

**WRIT PETITION NO. 205461 OF 2014 (L-WC)**

**BETWEEN:**

ULTRATECH CEMENT LTD.,  
A COMPANY REGISTERED UNDER THE PROVISIONS  
OF THE COMPANIES ACT, 1956  
HAVING ITS REGISTERED OFFICE AT  
AHURA CENTRE, B-WING, 2<sup>ND</sup> FLOOR,  
MAHAKALI CAVES ROAD, ANDHERI (EST),  
MUMBAI - 400093  
AND HAVING ONE OF ITS CEMENT DIVISION  
VIZ. UNIT SARLANAGAR CEMENT WORKS SEDAM,  
SARLANAGAR, SEDAM TALUK,  
KALABURAGI, KIARNATAKA - 583 222  
REPRESENTED BY AUTHORIZED REPRESENTATIVE  
THROUGH ITS SENIOR MANAGER LEGAL  
SRI VENKATESH V.B.,  
R/O SARLANAGAR, SEDAM,  
DIST : KALABURAGI - 585 222.

...PETITIONER

(BY SRI AMEETHKUMAR DESHPANDE, SENIOR COUNSEL FOR  
SRI DESHPANDE G.V., ADVOCATE)

**AND:**

1. THE ADDITIONAL LABOUR COMMISSIONER AND  
AUTHORITY UNDER INDUSTRIAL EMPLOYMENT





(STANDING ORDERS) ACT, 1946,  
KARMIKA BHAVAN,  
BANNERGHATTA ROAD,  
BANGALORE - 560 029.

2. THE DEPUTY LABOUR COMMISSIONER AND  
CERTIFYING OFFICER UNDER  
THE INDUSTRIAL EMPLOYMENT  
(STANDING ORDERS) ACT,  
GULBARGA REGION,  
GULBARGA - 585 101.
3. THE PRESIDENT,  
VASAVADATTA CEMENT FACTORY  
MAZDOOR SANGHA (HMS),  
NEAR GPS SCHOOL,  
SEDAM DISTRICT,  
GULBARGA - 585 222.
4. THE PRESIDENT,  
VASAVADATTA CEMENT  
GENERAL WORKERS UNION (BMS),  
DESK COMPLEX MAIN ROAD, SEDAM,  
DISTRICT GULBARGA - 585 222.
5. VASAVADATTA CEMENT EMPLOYEES  
AND GENERAL WORKERS UNION, SEDAM  
BY ITS PRESIDENT.

...RESPONDENTS

(BY SRI. MALLIKARJUN SAHUKAR, AGA FOR R1 AND 2;  
SRI S.V.DESHMUKH ADVOCATE FOR R3,  
SRI JAYANANDAYYA ADVOCATE FOR R4;  
SRI SANJAY M.JOSHI, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND  
227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR  
THE RECORDS PERTAINING TO THE ORDER DATED 21.07.2014  
PASSED IN APPEAL NO.SOA/CR-4/2010-11 (ANNEXURE-A)  
PASSED BY THE 1<sup>ST</sup> RESPONDENT; ISSUE A WRIT, ORDER OR



DIRECTION, MORE IN THE NATURE OF WRIT OF CERTIORARI, AND QUASH THE ORDER DATED 21.07.2014 PASSED IN APPEAL NO.SOA/CR-4/2010-11 (ANNEXURE-A PASSED BY RESPONDENT NO.1.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 10.04.2026, COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

**CAV JUDGMENT**

This writ petition under Article 226 and 227 of the Constitution of India is filed with a prayer to quash the order dated 21.07.2014 passed in Appeal No.SOA/CR-4/2010-11 by the 1<sup>st</sup> respondent- Additional Labour Commissioner.

2. Heard the learned counsel for the parties.

3. Petitioner is a Company incorporated under the Companies Act, 1956 having its Head Office at Calcutta in West Bengal State and a unit in the name of Vasavadatta Cement Limited at Sedam in Kalaburagi District, Karnataka State. Petitioner-Company is engaged in manufacturing,



sale and distribution of cement and is said to be one of the largest manufacturer of cement in the country. The service conditions of the workmen of petitioner's unit at Sedam are regulated by a Certified Standing Orders issued by the Certified Authority under the provisions of Industrial Employment (Standing Orders) Act, 1946. As per the Certified Standing Orders, age of retirement of the workmen in petitioner's unit is fixed at 58 years. When the matter stood thus, the 3<sup>rd</sup> respondent which is a recognized Union of workmen in petitioner's unit had filed an application before the 2<sup>nd</sup> respondent herein to amend Clause 40 of the Certified Standing Orders of the petitioner's unit at Sedam and increase the age of retirement of the workmen from 58 years to 60 years with effect from 01.01.2008. The petitioner had opposed the same before the 2<sup>nd</sup> respondent. However, the 2<sup>nd</sup> respondent, vide order at Annexure-B, dated 27.04.2010 had allowed the application filed by the 3<sup>rd</sup> respondent and Clause 40 of the Certified Standing Orders of petitioners'



Unit was ordered to be modified, enhancing the age of retirement of the workmen from 58 years to 60 years. Aggrieved by the said order dated 27.04.2010, petitioner had filed an appeal before the 1<sup>st</sup> respondent which was dismissed by the order impugned at Annexure-A dated 21.07.2014. It is under these circumstances, the petitioner-Company is before this Court.

4. Sri Ameethkumar Deshpande, learned Senior Counsel appearing for the petitioner having reiterated the grounds urged in the petition submits that the employer and workmen are bound by the Certified Standing Orders and merely for the reason that there is a amendment to the Model Standing Orders, the same cannot automatically be made applicable to the Certified Standing Orders, which governs the service conditions of the workmen. He submits that respondent Nos.1 and 2 have failed to properly apply their mind before passing the impugned orders. He also submits that without application of mind and without finding the exact nature of work in petitioner's



Unit at Sedam, the respondent Nos.1 and 2 have increased the age of retirement on the ground that retirement age in similarly situated other neighboring industrial units is enhanced to 60 years. He has placed reliance on the judgment of this Court in the case of the ***Management of M/s Mersen India Private Limited Vs. The Deputy Labour Commissioner and others*** in **W.P.No.4114/2021** disposed on 06.09.2022 and submits that without following the guidelines laid down in the said order, the respondent Nos.1 and 2 have passed the impugned order.

5. *Per contra*, learned counsel appearing for the respondents has argued in support of the impugned orders. It is submitted on behalf of the respondents that in view of the amendment to the Karnataka Industrial Employment (Standing Orders) Rules, 1961, which has come into effect from 27.03.2017, in the Model Standing Orders for the State, the age of retirement of workmen is enhanced to 60 years. In view of the aforesaid, it cannot



be said that the respondent Nos.1 and 2 have erred in modifying the Certified Standing Orders so far as it relates to the age of retirement of workmen. He has placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Bharatiya Kamgar Karmachari Mahasangh vs. M/s Jet Airways Limited*** reported in **2023 INSC 646** and submits that service condition which is more beneficial to the employee would prevail.

6. Perusal of the material on record would go to show that after receipt of an application from the 3<sup>rd</sup> respondent, the 2<sup>nd</sup> respondent had issued a show cause notice to the petitioner who had appeared before the said respondent and opposed the prayer made in the application by the 3<sup>rd</sup> respondent to modify Clause 40 of the Certified Standing Orders which provided for retirement age of the workmen at 58 years. In the said application, the 3<sup>rd</sup> respondent had prayed to enhance the age of retirement of workmen from 58 to 60 years. The 2<sup>nd</sup> respondent appears to have collected the Certified



Standing Orders of similarly situated four other cement factories situated in Kalaburagi District and having found that in all the said four cement industries, age of retirement of workmen was fixed at 60 years, after granting an opportunity of hearing to the petitioner and placing reliance on various judgments of the Hon'ble Supreme Court, which are referred to in the order at Annexure-B has passed an order to amend Clause 40 of the Certified Standing Orders and has enhanced the age of retirement from 58 years to 60 years. The Appellate Authority having re-appreciated the material collected by the respondent No.2 and also considering the nature of work assigned to the workmen has affirmed the order passed by the 2<sup>nd</sup> respondent enhancing the age of retirement from 58 years to 60 years.

7. The Hon'ble Supreme Court in the case of ***Rohtak Hissar District Electricity Supply Company Ltd. vs. State of Uttar Pradesh and others*** reported in **AIR 1966 SC 1471** has observed that the reasonableness



and fairness of the Standing Orders is a matter which is left to the discretion of the Certifying Officer in first instance, and the Appellate Authority when the matter goes in appeal before it and the constitutional Courts would not be justified in examining the correctness of the conclusions reached by the appropriate authorities.

8. During the pendency of this writ petition, Karnataka Industrial Employment (Standing Orders) Rules 1961 was amended with effect from 27.03.2017 and in Model Standing Orders, the age of retirement was enhanced from 58 years to 60 years.

9. The amended Clause 15-A of the Model Standing Orders in terms of the notification dated 27.03.2017, now reads as under :

***"15-A.*** *The age for retirement or superannuation of the workman may be 60 years or such other age as may be agreed upon between the employer and workman by the agreement, settlement or award which may be binding (sic) on the employer and the workman under any law for the time being in force."*



10. In the case of **Bharatiya Kamagar Karmachari Mahasangh** (supra), the Hon'ble Supreme Court, in paragraph No.8 to 11, has observed as follows :

*"8. This Court has succinctly laid down the scope of The Act in **U.P. SEB v. Hari Shankar Jain** - (1978) 4 SCC 16 (3-Judge Bench) that it was specially designed to define the terms of employment of workmen in industrial establishments, to give the workmen a collective voice in determining the terms of employment and to subject the terms of employment to the scrutiny of quasi-judicial authorities by the application of the test of fairness and reasonableness. It is an Act giving recognition and form to workmen's hard-won and precious rights. We have no hesitation in saying that it is a special Act expressly and exclusively dealing with the schedule-enumerated conditions of service of workmen in industrial establishments.*

*9. While discussing the letter and spirit of The Act, this Court in **Sudhir Chandra Sarkar v. Tata Iron and Steel Co. Ltd.** - (1984) 3 SCC 369 (3- Judge Bench) held that:*

*"11. ...it was an act to require employers in industrial establishments to formally define conditions of employment under them. The preamble of the Act provides that it is expedient to require employers in industrial establishments to determine with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them..... The Act was a legislative response to the laissez-faire*



*rule of hire and fire at sweet will. It was an attempt at imposing a statutory contract of service between two parties unequal to negotiate on the footing of equality.*

....

*The intendment underlying the Act and the provisions of the Act enacted to give effect to the intendment and the scheme of the Act leave no room for doubt that the Standing Orders certified under the 1946 Act become part of the statutory terms and conditions of service between the employer and his employee and they govern the relationship between the parties."*

10. In **Western India Match Co. v. Workmen** - (1974) 3 SCC 330 (hereinafter referred to as 'WIMCO') (2-Judge Bench), the Court further held that:

*"7. The terms of employment specified in the Standing Order would prevail over the corresponding terms in the contract of service in existence on the enforcement of the Standing Order.....*

*8. If a prior agreement inconsistent with the Standing Orders will not survive, an agreement posterior to and inconsistent with the Standing Order should also not prevail.....*

...

*10. In the sunny days of the market economy theory, people sincerely believed that the economic law of demand and supply in the labour market would settle a mutually beneficial bargain between the*



*employer and the workmen. Such a bargain, they took it for granted, would secure fair terms and conditions of employment to the workman. This law they venerated as natural law. They had an abiding faith in the verity of this law. But the experience of the working of this law over a long period has belied their faith.*

**11.** *...It plainly follows from Sections 4, 10 and 13(2) that the inconsistent part of the special agreement cannot prevail over the Standing Order. As long as the Standing Order is in force, it is binding on the Company as well as the workmen. To uphold the special agreement would mean giving a go-by to the Act's principle of three-party participation in the settlement of terms of employment. So we are of the opinion that the inconsistent part of the special agreement is ineffective and unenforceable."*

11. Placing reliance on **WIMCO** (*supra*), this court in **Rasiklal Vaghajibhai Patel v. Ahmedabad Municipal Corpn.**- (1985) 2 SCC 35 (2-Judge Bench) held that any condition of service, if inconsistent with certified standing orders, would not prevail, as the certified standing orders would have precedence over all such agreements. Any settlement, the employee Union enters into with the Employer would not override the Model Standing Order, unless it is more beneficial to the employees."



11. In the aforesaid judgment, the Hon'ble Supreme Court has clearly stated that any settlement between the employee's Union and the employer which is not more beneficial to the employees would not override the Model Standing Orders. The respondent Nos.1 and 2 after verifying the Standing Orders of similar cement companies functioning in the same district, having found that the age of retirement of workman in the said cement industries was fixed at 60 years and after appreciating the nature of work done by the workman in these cement industries, have thought it fit that age of retirement of workman in petitioner's unit at Sedam also needs to be enhanced from 58 years to 60 years, which is consistent to the age of retirement of similar industrial units in same district. In addition to the aforesaid during the pendency of this petition, the Model Standing Orders are now amended by the State Government with effect from 27.03.2017 and the age of retirement of industrial workman has been enhanced from 58 years to 60 years.



Under the circumstances, I do not find any illegality or irregularity in the orders passed by respondent Nos.1 and 2, which are impugned in this writ petition.

12. In the case of the **Management of M/s Mersen India Private Limited** (supra), the Co-ordinate Bench of this Court has held that amendment to the Model Standing Orders would not automatically be applicable to the Certified Standing Orders of every industrial establishments and in the said order, the various aspects that are required to be considered by the certifying authority while approving an amendment to the Certified Standing Orders of industrial establishment is also explained. Any amendment to the Model Standing Orders would not automatically be made applicable to the Certified Standing Orders. But, as held by the Hon'ble Supreme Court in the case of **Bharatiya Kamgar Karmachari Mahasangh** (supra), if the service conditions found in the Model Standing Orders is more beneficial to the workman, the same would prevail over



the service conditions found in the Certified Standing Orders. The exercise that is required to be done by the Certifying Authority before approving an amendment to the Certifying Standing Orders as observed in the order passed in the case of the ***Management of M/s Mersen India Private Limited*** (supra) has been satisfactorily complied in the present case and no purpose would be served in asking the 2<sup>nd</sup> respondent to redo the exercise having regard to the law laid down by the Hon'ble Supreme Court in the case of ***Bharatiya Kamgar Karmachari Mahasangh*** (supra).

13. Under the circumstances, I am of the opinion that the writ petition does not merit consideration. Accordingly, the writ petition is ***dismissed***.

**Sd/-**  
**(S.VISHWAJITH SHETTY)**  
**JUDGE**

SN  
List No.: 1 Sl No.: 1