



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

**HON'BLE SHRI JUSTICE VIVEK RUSIA
&
HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI**

WRIT APPEAL No. 1167 of 2019

ULTRA TECH CEMENT LTD.

Versus

ADDITIONAL LABOUR COMMISSIONER AND OTHERS

Appearance:

*Shri Girish Patwardhan, learned Senior Advocate along with Ms.
Kirti Patwardhan, learned counsel for the appellant / Company.*

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WITH

WRIT PETITION No. 13479 of 2022

ULTRATECH CEMENT LTD. UNIT VIKRAM CEMENT WORKS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Girish Patwardhan, learned Senior Advocate along with Ms.

Kirti Patwardhan, learned counsel for the appellant / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 13489 of 2022

ULTRATECH CEMENT LTD. UNIT VIKRAM CEMENT WORKS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Girish Patwardhan, learned Senior Advocate along with Ms.



Kirti Patwardhan, learned counsel for the appellant / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 13491 of 2022

***ULTRATECH CEMENT LTD. UNIT VIKRAM CEMENT WORKS
THROUGH ITS SENIOR GENERAL MANAGER SHRI JAYANT
SINGH***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri Girish Patwardhan, learned Senior Advocate along with Ms.
Kirti Patwardhan, learned counsel for the appellant / Company.*

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 13497 of 2022

***ULTRATECH CEMENT LTD. UNIT VIKRAM CEMENT WORKS
THROUGH SENIOR GENERAL MANAGER***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri Girish Patwardhan, learned Senior Advocate along with Ms.
Kirti Patwardhan, learned counsel for the appellant / Company.*

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 13563 of 2022

***ULTRATECH CEMENT LTD. UNIT VIKRAM CEMENT WORKS
THROUGH ITS SENIOR GENERAL MANAGER SHRI JAYANT
SINGH***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:



Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the petitioner / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 19104 of 2022
**ULTRATECH CEMENT LTD THROUGH ITS SENIOR GENERAL
MANAGER SHRI JAYANT SINGH**

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the petitioner / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 19246 of 2022
MAHENDRA SINGH SHEKHANWAT

Versus

**ULTRATECH CEMENT LIMITED (UNIT VIKRAM CEMENT
WORKS)**

Appearance:

Shri Jagdish Baheti learned counsel for the petitioner / Workmen.

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

WRIT PETITION No. 19249 of 2022
RAMESH CHANDRA BENIWAL

Versus

**ULTRATECH CEMENT LIMITED (UNIT VIKRAM CEMENT
WORKS) THROUGH FACTORY MANAGER**

Appearance:



Shri Jagdish Baheti learned counsel for the petitioner / Workmen.

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

WRIT PETITION No. 19253 of 2022

VIRENDRA KUMAR DHANOPIA

Versus

ULTRATECH CEMENT LIMITED (UNIT VIKRAM CEMENT WORKS)

Appearance:

Shri Jagdish Baheti learned counsel for the petitioner / Workmen.

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

WRIT PETITION No. 24225 of 2022

ULTRATECH CEMENT LTD

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the appellant / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 27471 of 2022

DILIP KUMAR RAJPUROHI

Versus

ULTRATECH CEMENT LIMITED (UNIT VIKRAM CEMENT WORKS) THROUGH FACTORY MANAGER

Appearance:

Shri Jagdish Baheti learned counsel for the petitioner / Workmen.



Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

WRIT PETITION No. 27473 of 2022

HIMMAT SINGH TANK

Versus

ULTRATECH CEMENT LIMITED (UNIT VIKRAM CEMENT WORKS) THROUGH FACTORY MANAGER

Appearance:

Shri Jagdish Baheti learned counsel for the petitioner / Workmen.

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

WRIT PETITION No. 29980 of 2022

RAMESHCHANDRA DADHICHI

Versus

ULTRATECH CEMENT LIMITED (UNIT VIKRAM CEMENT WORKS)

Appearance:

Shri Jagdish Baheti learned counsel for the petitioner / Workmen.

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

WRIT PETITION No. 182 of 2023

ULTRATECH CEMENT LTD. UNIT VIKRAM CEMENT WORKS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the petitioner / Company.



Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 1393 of 2023

RAVINDRA DHANWADE

Versus

**ULTRATECH CEMENT LIMITED (UNIT VIKRAM CEMENT
WORKS) THROUGH FACTORY MANAGER**

Appearance:

Shri Jagdish Baheti learned counsel for the petitioner / Workmen.

Shri Girish Patwardhan, learned Senior Advocate along with Ms.

Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

WRIT PETITION No. 9386 of 2023

ULTRATECH CEMENT LTD UNIT VIKRAM CEMENT WORKS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Girish Patwardhan, learned Senior Advocate along with Ms.

Kirti Patwardhan, learned counsel for the petitioner / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 10554 of 2023

ULTRATECH CEMENT LTD.

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Girish Patwardhan, learned Senior Advocate along with Ms.

Kirti Patwardhan, learned counsel for the petitioner / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.



WRIT PETITION No. 10664 of 2023

ULTRATECH CEMENT LTD.

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the petitioner / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Shri Jagdish Baheti learned counsel for the respondent / Workmen.

WRIT PETITION No. 21386 of 2023

OMKAR

Versus

SUMIT SINGHANIYA PARTNER JAGDISH TRADING COMPANY

Appearance:

Shri Jagdish Baheti learned counsel for the petitioner / Workmen.

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

WRIT PETITION No. 22062 of 2023

RAMNARESH

Versus

ULTRATECH CEMENT LIMITED (UNIT VIKRAM CEMENT WORKS)

Appearance:

Shri Jagdish Baheti learned counsel for the petitioner / Workmen.

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

WRIT PETITION No. 22064 of 2023

RAJENDRA

Versus



**ULTRATECH CEMENT LIMITED (UNIT VIKRAM CEMENT
WORKS)**

Appearance:

Shri Jagdish Baheti learned counsel for the petitioner / Workmen.

Shri Girish Patwardhan, learned Senior Advocate along with Ms. Kirti Patwardhan, learned counsel for the respondent / Company.

Shri Sudeep Bhargava learned Dy. A.G. for the respondent / State.

Reserved on : 31.08.2024

Delivered on : 24.09.2024.

ORDER

Per: Justice Vivek Rusia

Details of Impugned Orders

(i) The appellant/petitioner has filed Writ Appeal No.1167/2019 challenging the order passed by Single Bench in WP No.11515/2019 holding that the cement industry is not under the control of the Central Government also enacted the Industrial Employment (Standing Order) Act, 1946 will be applicable to the appellant /petitioner.

(ii) Vide Writ Petition No.11515/2019 the petitioner/ appellant is challenging the impugned order dated 18.02.2019 passed by the Additional Labour Commissioner (State), whereby the dispute raised by respondent No.3/Workmen was referred to the learned Industrial Court under Section 10(1) of the Industrial Disputes Act, 1947.

(iii) Writ Petitions bearing Nos. WP/10554/2023, WP/13479/2022, WP/13489/2022, WP/13491/2022, WP/13497/2022, WP/13563/2022, WP/19104/2022, WP/24225/2022, WP/182/2023, WP/9386/2023, and WP/10664/2023 have been instituted by the petitioner/appellant assailing Award dated 26.04.2022 passed by the learned Industrial Court holding that appropriate Government will be State of Madhya Pradesh and the petitioner/appellant will be governed by Madhya Pradesh Industrial



Employment (Standing Orders) Act, 1961 and the age of retirement will be 60 years.

(iv) By way of Writ Petitions bearing Nos. WP/21386/2023, WP/22062/2023, WP/22064/2023, WP/19246/2022, WP/19249/2022, WP/19253/2022, WP/27471/2022, WP/27473/2022, WP/29980/2022, and WP/1393/2023 retired Workmen of the appellant seeking full back wages instead of 50% as awarded by learned Industrial Tribunal along with interest @ of 18% per annum.

List of Acts and Rules referred to in this matter

	Acts and Rules	Referred to as
1.	The Industrial Dispute Act, 1947	The ID Act
2.	The Industries (Development and Regulation) Act, 1951	
3.	The Industrial Employment (Standing Order) Act, 1946	The CG Act 1961
4.	The Industrial Employment (Standing Order) Rules, 1946	The CG Rules 1961
5.	The M.P. Industrial Employment (Standing Orders) Act, 1961	The M.P. Act 1961
6.	The M.P. Industrial Employment (Standing Orders) Rules, 1963	The M.P. Rule 1963

1. Ultra Tech Cement Ltd. is an employer company hereinafter referred to as **“the appellant/petitioner”**
2. The Respondent who raised the dispute hereinafter referred to as the appellant/petitioner **“the workmen”**

Facts of the case:

02. The petitioner/appellant is Ultra Tech Cement Ltd., incorporated under the Companies Act 1956, and has a cement factory in the village of Khor, District Neemuch, and a captive mine in nearby areas. (hereinafter referred to as the “Appellant / Petitioner”). The private respondents (hereinafter referred to as “Workmen”) in all the writ petitions have been working in the cement factory at Khor, District



Neemuch belonging to the appellant /petitioner.

03. The State Government enacted the M.P. Industrial Employment (Standing Orders) Act, 1961 (hereinafter referred to as “ M.P. Act, 1961”) to regulate the conditions of employment of employees working in the undertaking/establishment in the State of M.P. Proviso to section 2 of the M.P. Act, 1961 says that the provisions of this Act shall not apply to an undertaking carried on by or under the authority of Central Government or Railway Administration or mines or an oil field. Rule 7 of the M.P. Industrial Employment (Standing Orders) Rules, 1963 (hereinafter referred to as the M.P. Rules, 1963) provides that the retirement of the service of the employee shall be on the date he attains the age of 58 years, but shall not retain in the service after the age of 60 years. In the exercise of the power conferred under Sections 21(1) and 21(2) of the M.P. Act, 1961, the State Government has amended the Rules, 1963 by increasing the date of retirement from 58 years to 60 years.

04. The respondent workmen raised a dispute that they are also entitled to continue in the service up to the age of 60 years under the M.P. Act, 1961 in which by way of amendment in the Standing Order, the age of retirement has been enhanced to 60 years. The appellant/petitioner opposed the above claim before the learned ALC that the cement industry is under the control of the Central Government therefore shall not be governed under the M.P. Act 1961 in respect of the condition of the Workmen working in its Company. In the event of failure of the conciliation before the ALC, the State Government referred the dispute to the learned Industrial Court. The terms of the reference are reproduced below:

1. "क्या राज्य शासन द्वारा मानक स्थाई आदेशों में अधिवार्षिकी आयु संशोधित कर 60 वर्ष किये जाने के पश्चात् भी



सेवानियोजक द्वारा सेवानियुक्त को निर्धारित अधिवार्षिकी आयु 60 वर्ष के पूर्व सेवानिवृत्त किया जाना वैध एवं उचित है?"

2. यदि नहीं तो उपर्युक्त सेवानियुक्त किस सहायता के पात्र है? तथा इस संबंध में सेवानियोजक क्या निर्देश दिये जाने चाहिए?"

05. the petitioner/ appellant challenged the above reference before the High Court by way of the Writ Petition. Vide the impugned order dated 28.06.2019, the Writ Court dismissed the writ petition with a cost of Rs.25,000/-.

06. During the pendency of this writ petitioner, learned the learned Industrial Court proceeded with the reference sent by the State of M.P. and vide Award dated 26.04.2022 answered the reference in favour of the Workmen that they are entitled to continue in the services up to the age of 62 years. Those workmen who had crossed the age of 60 years have been awarded 50% of the two-year salary The appellant/ petitioner as well as the workmen also challenged the award mentioned above by way of separate misc. petitions

07. Needless to say, one more writ petition i.e. Writ Petition No.3919 of 2017 raising a similar issue by this present appellant had already been dismissed vide order dated 01.10.2018 passed by the Principal Bench of this High Court. All the writ petitions challenging the award passed by the Labour Court have been tagged with this Writ Appeal as the common question of law is involved, therefore, the writ appeal as well as writ petitions are being decided by this common order. For the sake of convenience, facts are being taken from Writ Petition No.13479 of 2022 for disposal of this Bunch.

The Grounds of challenge by the appellant/petitioner:

08. By issuing a gazette notification dated 28.06.2014, the Government of India enacted the Industries (Development and



Regulation) Act, 1951. The Central Government also enacted the Industrial Employment (Standing Order) Act, 1946 (hereinafter referred to as “ the CG Act, 1946”) thereafter, the rules were also framed known as the Industrial Employment (Standing Orders) Central Rules, 1946. Section 1(4)(ii) of the CG Act, 1946 says that nothing in this Act shall apply *inter alia* to any industrial establishment to which the provisions of the M.P. Act, 1961 apply and the provisions of the CG Act, 1946 shall apply to all industrial establishment under the control of the Central Government. According to the petitioner/appellant, the cement industries are under the control of the Central Government, hence the provisions of the M.P. Act 1961 shall not apply. Ist Schedule of the CG Act 1946 deals with the industries engaged in the manufacturing and production of any of the articles mentioned under the heading or sub-heading i.e. item No.35 cement and gypsum product, therefore, the cement industry is a scheduled industry under the control of the Central Government.

09. According to Shri Patwardhan learned senior counsel the Cement Unit of petitioner/appellant since its operationalization is governed by provisions of the CG Act, 1946, Industrial Employment (Standing Orders) Rules, 1946 because it is under the control of the Central Government in terms of the Industries (Development & Regulation) Act, 1951. According to learned senior counsel industrywide settlement the Memorandum of Settlement dated 29.07.2015 for the period 01.04.2014 to 31.03.2018 was arrived at between the management of cement industries and several trade unions of Workmen under the provisions of the Industrial Disputes Act, 1947 (“**ID Act**”). Clause 28 of the Certified Standing Orders provides for a retirement age of 58 years and has remained unchanged by settlement between the management and Workmen. Learned senior counsel



submitted that the workers' union terminated the erstwhile settlement and raised a fresh Charter of Demands that included the demand for an increase in retirement age at Demand No. 14. Conciliation proceedings were held between the management and Workmen before the Conciliation Officer. Thereafter a fresh settlement was drawn which was duly certified by the Conciliation Officer and attained sanctity under Section 12(3) and 18(3) of the ID Act. Such settlement was valid for the period 2014-2018 and was a full and final settlement in which the age of retirement was not enhanced meaning thereby the said demand was abandoned by the workers union. Shri Patwardhan learned senior counsel submitted that despite above above-stated facts and circumstances, the Labour Commissioner referred with respect to the superannuation of Workmen working at the Cement Unit of the appellant.

10. Shri Jagdish Baheti learned counsel for the Workmen and Shri Sudeep Bhargava learned Dy. The Advocate General appearing for the State has argued in support of the impugned order passed by the learned Industrial Court and prayed for the dismissal of writ appeal as well as Writ Petitions.

Appreciation and conclusion

11. The core issue involved in these bunch of cases is whether the statutory increase in the age of retirement i.e. 60 years by the State of M.P. shall apply to the Workmen of Vikram Cement Lime Stone Mines and Cement Plant, a unit of the petitioner/appellant.

12. So far the first issue raised by the appellant/ petitioner is *that the appellant is a controlled industry under the Industries (Development & Regulation) Act 1951 and is governed by CGAct of 1946*. The Act of 1951 places certain industrial establishments under



the control of the Central Government in the interest of the public. Section 2 of the Act of 1951 read with the First Schedule provides for industries under the control of the Central Government and Cement is one of the industry which is categorized as an industry is categorized as a Schedule Industry. The State of Madhya Pradesh enacted the M.P. Act of 1961 which came into force on 28.07.1961. Proviso to Section 2 (1) of the Act of 1961 provides that the Act of 1961 will not apply to an undertaking carried on by or under the authority of Central.

13. After the enactment of the M.P. Act of 1961, the Act of 1946 was amended in the year 1963 and a proviso was inserted in Section 1(4) thereof which specifically provided that the M.P. Act of 1961 would not apply to industrial establishments under the control of the Central Government. Relevant extracts of the CGAct of 1946 are reproduced below:

“1. Short title, extension and application.-

...

(4) ...

(ii) any industrial establishment to which the provisions of the Madhya Pradesh

Industrial Employment (Standing Orders) Act, 1961 apply:

Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961, the provisions of this Act shall apply to all industrial establishments under the control of the Central Government.”

(Emphasis Supplied)

14. The Government of India *vide* Notification bearing No.SO 757 (E) dated 08.11.1977 specifying that Section 2 (a)(i) of the ID Act would include within its ambit, the cement industry which has been declared as a controlled industry under Section 2 of the Act of 1951. Section 2(a)(i) of the ID Act provides situations/circumstances in which the Central Government will be the appropriate Government.

However, the provision of the Act of 1961 would apply to the Cement Unit because the Central Government in the exercise of its



control over the cement industry delegated its powers to the State Government *vide* notification dated 08.12.1977. By virtue of such delegation of powers, the State Government was also authorized to exercise such powers as the Central Government

15. The Ministry of Labour and Employment, Government of India *vide* circular dated 15.01.2014 clarified that for the cement industry, the Central Government is the appropriate Government within the ambit of the ID Act and Contract Labour (Regulation & Abolitions) Act, 1970 despite delegation of power to the State Government. The relevant extracts are reproduced below:

“It has come to the knowledge of this office that there is confusion over the issue of ‘Appropriate Government’ in respect of the Cement Industry amongst the Officers working in the Labour Department of Central Government and the State Government for dealing any dispute raised by the workers/ unions etc. in their jurisdiction.

It is clarified that for the Cement Industry, the Central Government is the Appropriate Government, within the ambit of the Industrial Disputes Act, of 1947 and the Contract Labour (Regulations & Abolitions) Act, of 1970. Though the Central Government delegated the powers to the State Government under section 36(B) of the Industrial Dispute Act, 1947, the original powers remain with the Central Govt.”

(Emphasis Supplied)

In view of the above writ court and the learned Industrial Court have rightly held that the State Government also has the power to refer the dispute to the Labour Court or the Industrial Court as the case may be.

16. Shri Patwardhan learned senior counsel has relied on the order passed in *UltraTech Cement Limited V/s Shrinivas Narayanrao Moharil, 2010 SCC OnLine Bom 223* in which the High Court of Bombay held that both Central Government and State Government are appropriate Governments for cement industry, however, the industry will be governed by central enactments. In *Orient Cement Limited V/s Ramesh Dhannu Baviskar, 2018 SCC OnLine Bom 21408* it was held that the appropriate Government in relation to a controlled industry



would be the Central Government and State enactments would not apply. In *M/s Sintra Limited & Ors. V/s State of Bihar & Ors., 1998 SCC OnLine Pat 386*, the High Court of Patna has held that the cement industry is a controlled industry and the Central Government is the appropriate Government. In *JSW Cement Limited v. State of Andhra Pradesh, 2020 SCC OnLine AP 3*, the High Court of Andhra Pradesh has also held that the appropriate Government for the cement industry is the central Government. In those States there is no local enactment like the M.P. Act of 1961, hence these judgments will not help the appellant/ petitioner.

17. The Hon'ble Supreme Court in *Yovan India Cements Employees Union and Anr. V/s Management of Indian Cements Limited & Ors., (1994) 1 SCC 572* while holding that the appropriate Government for the purposes of ID Act are both Central Government and State Governments on account of delegation of power by the Central Government by notification dated 08.12.1977 have placed reliance on the notification dated 08.11.1977 issued by the Central Government declaring cement industry as controlled industry.

18. The second issue raised by the appellant/petitioner is that the Settlement arrived between CMA and the workers' union is binding on Workmen is unacceptable and is also liable to be rejected. According to the appellant, the service conditions of Workmen working at the Cement Unit are regulated by way of periodic settlements arrived between Workmen unions and the management of cement plants of the appellant under Sections 12(3) and 18(3) of the ID Act, 1947 before the Chief Labour Commissioner (Central). The workers' unions in the charter of demands raised the issue of the age of retirement, however, the same was not agreed upon in the settlements. Learned senior counsel has relied on judgment passed by the Apex court in the case of *National*



Engineering Industries V/s State of Rajasthan, (2000) 1 SCC 371, Barauni Refinery Pragatisheel Shramik Parishad V/s IOCL, (1991) 1 SCC Cases 4, Rajashree Cement General Workers & Staff Union V/s Management of M/s Ultratech Cement Limited in Writ Appeal No.200010/2022, The Management of Hindalco Industries Limited V/s General Secretary, Indal Employees' Union & Ors., Writ Appeal No. 100235/2022 by the High Court Karnataka in similar circumstances held that during the operation of settlement, it is not open for Workmen to demand change in condition of service contrary to settlement arrived between the parties. The said judgment has also been affirmed by the Supreme Court in SLP Diary No.42618/2023 and Review Petition Diary No.16975/2024. As held above by us in the above discussion in the State of M.P. the working conditions of the cement workers are governed under the M.P. Act of 1961, not under the biparty settlement. The service conditions which are more beneficiary to the workmen under the statute shall prevail over the settlement.

19. The Vikram Cement Lime Stone Mines which is captive to the Cement Unit of the appellant /petitioner does not form a composite unit. It is to be noted that the service conditions of the Workmen working at the limestone mine and those working at the Cement Unit of the appellant/petitioner cannot be regulated under the same laws as they are governed under the Mines Act and Factories Act 1948 respectively. As per Clause 28 of the CSO for the Vikram Cement Lime Stone Mines, the age of retirement of Workmen is 58 years. An increase in the age of retirement of Workmen at the Cement Unit of the appellant/petitioner is governed under the M.P. Act of 1961.

20. That the appellant/petitioner also filed a bunch of Writ Petitions (WP No 1442/2020 and connected cases) before the Principal bench of this High Court challenging the order dated 30.9.2019 passed



by the learned Labour Court: Stana in the age of superannuation of the workmen of the appellant has been held to be 60 years. Vide order dated 08.06.2021 the writ court has dismissed the Writ Petitions by holding the State Government is the appropriate Government for the cement industries. All the grounds raised by Shri Patwardhan learned senior counsel before this court were also raised by the learned senior counsel appearing for the appellant/petitioner in those Writ Petitions before the writ court also but all have been rejected. Hence we have no reason to take a different view.

21. The workmen who have wrongly retired at the age of 58 have also challenged the impugned award whereby they have only been awarded 50 % of the salary/wages of two years. Once it has been held that they were entitled to continue in the service up to the age of 60 and ready to work, they are entitled to get the full salary of two years. These Writ Petitions deserve to be allowed.

Results

(i) Writ Appeal No.1167/2019 challenging the order passed by Single Bench in WP No.11515/2019 is hereby **dismissed**.

(ii) Vide Writ Petition No.11515/2019 the petitioner/appellant is challenging the impugned order dated 18.02.2019 passed by the Additional Labour Commissioner (State) under Section 10(1) of the Industrial Disputes Act, 1947, same is also **dismissed**.

(iii) Writ Petitions bearing Nos.WP/10554/2023, WP/13479/2022, WP/13489/2022, WP/13491/2022, WP/13497/2022, WP/13563/2022, WP/19104/2022, WP/24225/2022, WP/182/2023, WP/9386/2023 and WP/10664/2023 have been instituted by the petitioner/appellant assailing award dated 26.04.2022 passed by the learned Industrial Court holding the age of retirement to be 60 years are hereby **dismissed**.

(iv) By way of Writ Petitions bearing Nos. WP/21386/2023,



WP/22062/2023, WP/22064/2023, WP/19246/2022, WP/19249/2022, WP/19253/2022, WP/27471/2022, WP/27473/2022, WP/29980/2022 and WP/1393/2023 filed by the retired Workmen of the appellant seeking full back wages are hereby **allowed**.

22. Let a photocopy of this order be kept in all the aforesaid connected matters.

Certified copy as per rules.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

Divyansh