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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10836 OF 2018

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Dangkwang Precision India Pvt. Ltd.

Plot No.D 82, MIDC, Ranjangaon,
Taluka Shirur, District Pune 412 220

... Petitioner

V/s.

Dangkwang Precision Employees Union,

C/o. Deepak Sahebrao Gangawane,
Near Marathi School No.5,
Mumbai Bazaar, Taluka Shirur,
District Pune 412 210

... Respondent

Mr. A.D. Patwardhan with Mr. T.R. Yadav for the
petitioner.

Mr. Nitin A. Kulkarni for the respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : NOVEMBER 14, 2025

PRONOUNCED ON : NOVEMBER 20, 2025

JUDGMENT:

1. The petitioner has invoked the writ jurisdiction of this Court under Articles 226 and 227 of the Constitution of India. The challenge is to the Award dated 29 March 2018 passed by the Presiding Officer, Industrial Tribunal, Pune in Reference (IT) No. 30 of 2015.

2. The relevant facts are simple. The petitioner is a company incorporated under the Companies Act, 1956. It runs a factory at

Ranjangaon, Pune and manufactures precision goods. The respondent is a registered trade union under the Trade Unions Act, 1926. It represents eighteen workmen employed in the petitioner's establishment.

3. On 30 December 2014, the respondent union submitted a charter of demands to the petitioner. The petitioner did not respond. The union raised an industrial dispute before the Conciliation Officer. Upon failure of conciliation, the Appropriate Government made a reference on 20 June 2015 to the Industrial Tribunal, Pune regarding the said charter of demands. The union filed its statement of claim on 12 August 2015. The petitioner filed its written statement on 14 October 2015 and opposed the claim.

4. On 30 April 2016, the Industrial Tribunal passed an interim order granting an interim wage rise of three thousand rupees per month. The petitioner challenged this order in a writ petition. By order dated 30 October 2017, this Court directed the petitioner to pay three thousand rupees per month from October 2017 onwards as interim relief.

5. Both sides led evidence before the Industrial Tribunal. Thereafter, on 29 March 2018, the Tribunal passed the impugned Award. It directed the petitioner to grant a wage rise of five thousand eight hundred rupees. This Award is under challenge in the present writ petition.

6. Mr. Patwardhan, learned Advocate for the petitioner, relied on the judgment of the Supreme Court in *Novex Dry Cleaners v. The Workmen*, 1962 (1) LLJ 271. He submitted that the Industrial

Tribunal was duty bound to examine the financial capacity of the industry and its ability to bear any additional wage burden. He submitted that the Tribunal ought to have made a comparison of wages with industries of a similar nature, having regard to volume of operations, share capital, strength of workforce and the number of years the industry has been in business. He submitted that these essential factors were ignored by the Tribunal.

7. He next relied on the judgment of the Supreme Court in *Unichem Laboratories Ltd. v. Workmen*, (1972) 3 SCC 552. He submitted that the Supreme Court has held that depreciation or amortization should not be used to artificially reduce profits or to show inflated losses. At the same time, he submitted that the Supreme Court in *Management of Shri Chalthan Vibhag Khan Udyog Sahakari Mandal v. B. S. Barot*, AIR 1980 SC 31, has clarified that investment made in machinery and tools cannot be overlooked. It is held that while depreciation cannot be misused to inflate losses, the actual investment in machinery must be considered because machinery depreciates due to wear and tear over time. The amount cannot be treated as redundant. He therefore submitted that depreciation must be considered for arriving at the true profit and loss position when determining wage revision. He submitted that the conclusion of the Tribunal that depreciation should not be considered except for tools alone is contrary to the law laid down in *Management of Shri Chalthan Vibhag Khan Udyog Sahakari Mandal*. He invited attention to the profit and loss accounts and submitted that the figures of depreciation and the additions made to machinery during the

relevant period ought to have been considered by the Tribunal.

8. He submitted that the Tribunal also failed to consider losses suffered due to fluctuation in foreign exchange rates. He submitted that the Tribunal erred in observing that the petitioner carries out unique work. According to him, the Tribunal made a wrong comparison with industries that are not similar in size, share capital, profits or years of establishment. He submitted that the material on record shows that the number of permanent workmen and the nature of products in those industries are different. He therefore submitted that such comparison was impermissible.

9. He submitted that the Tribunal placed undue emphasis on the fact that the petitioner earned profit in the year 2016-2017. He submitted that the Tribunal failed to consider that the petitioner had suffered continuous losses from 2010-2011 to 2015-2016. These carried forward losses, if taken into account, would wipe out the profit earned in 2016-2017. He therefore submitted that the impugned Award deserves to be quashed and set aside.

10. In reply, Mr. Kulkarni, learned Advocate for the respondent union, submitted that the Tribunal has examined the financial position of the petitioner from the year 2010-2011 to 2016-2017. He submitted that the Tribunal granted benefits from 1 April 2015 and declined the demand for wage rise from 1 July 2014. He submitted that this shows that the Tribunal has exercised its discretion after considering the material on record.

11. On the issue of depreciation, he submitted that the profit and loss account produced by the petitioner is not supported by any

independent document. He submitted that the petitioner has claimed a consolidated figure of depreciation which includes land and building and also includes accumulated depreciation and amortization. Amortization, according to him, means writing off the initial cost of assets. He submitted that there is no evidence on record to show the actual figure of depreciation.

12. He submitted that Section 32 of the Income Tax Act permits depreciation for certain tangible and intangible assets used for business which reduces taxable income. He submitted that the petitioner has not produced any document to show how depreciation is calculated. He submitted that no material is placed on record to show that the petitioner has claimed depreciation under Section 32 of the Income Tax Act. He submitted that the Tribunal was therefore right in holding that the depreciation claimed appears inflated. He relied on the observations of the Supreme Court in *Shri Chalthan Vibhag Khan Udyog Sahakari Mandal* where the Court held that inflated depreciation should not be permitted. He submitted that the petitioner must prove actual or probable depreciation of machinery and tools due to wear and tear. He submitted that the petitioner cannot include claims based on expansion or addition to fixed assets.

13. He submitted that in any case the Tribunal in paragraph 45 has allowed the petitioner liberty to adjust the interim wage rise already paid. He submitted that the final Award grants a wage rise of five thousand eight hundred rupees. If the interim rise is adjusted, the net rise is only two thousand eight hundred rupees. He submitted that this cannot be said to be arbitrary or excessive.

He submitted that the Tribunal has applied the settled principles of wage adjudication as recorded in paragraph 19 of the Award. He submitted that no error of law is shown. He therefore prayed that the writ petition be dismissed with costs.

14. I have heard both sides and examined the record with care. The dispute concerns wage revision. The Tribunal has granted a wage rise. The petitioner argues that the Tribunal ignored relevant financial factors. The union supports the Award and submits that the Tribunal applied correct principles.

15. In matters of wage adjudication, certain guiding principles must control the decision. The Tribunal must first examine the financial strength of the employer. It must see whether the industry can bear the additional burden without disturbing its stability. The Tribunal must also consider the nature of the industry. Every industry has its own structure, market conditions and operational demands. These cannot be ignored while fixing wages.

16. The Tribunal must further consider the wage pattern in comparable industries. Such comparison is permissible only when the industries are similar in essential features. These include the size of the business, the capital invested, the number of workmen employed and the period for which the industry has been in operation. A comparison with an industry that is different in scale or character does not supply any reliable standard. The law expects the Tribunal to adopt a realistic and fair approach. The Tribunal must protect the workmen's right to fair wages while

ensuring that the employer is not exposed to a burden it cannot carry.

17. The petitioner has placed reliance on decisions of the Supreme Court in *Unichem Laboratories and Management of Shri Chalthan Vibhag Khan Udyog Sahakari Mandal* to contend that depreciation and investment in machinery form an integral part of the financial assessment. The legal position on this point is settled. Depreciation serves a specific purpose in commercial accounting. It reflects the gradual reduction in value of machinery and equipment due to constant use and passage of time. This genuine depreciation must be accounted for. It indicates the real cost borne by an industry in maintaining its productive assets.

18. However, depreciation cannot be treated as a device to exaggerate losses. The law does not permit an employer to place inflated figures under the head of depreciation so as to project an adverse financial picture. The Tribunal must therefore examine the profit and loss accounts with care. The Tribunal must separate real depreciation from notional or exaggerated claims. It must see whether the employer has placed proper material to show actual wear and tear, investment in machinery and the basis of calculating depreciation.

19. The Tribunal in this case had the duty to apply this test. It had to ensure that the financial statements reflect a true and fair position. The Tribunal was expected to consider whether the petitioner substantiated its depreciation figures with independent evidence. A wage adjudication cannot proceed on uncertain or

unsupported entries in accounts. The Tribunal was required to approach the financial record with this balanced understanding.

20. On examining the Award, it becomes clear that the Tribunal has not proceeded in a mechanical manner. It has taken into account the financial record of the petitioner for a continuous period from 2010-2011 to 2016-2017. This range of assessment is significant. It enables the Tribunal to understand the long-term financial health of the establishment instead of focusing on isolated figures of profit or loss. The Tribunal has also examined the union's demand for wage rise from 1 July 2014. The Tribunal has declined to grant that benefit. Instead, the Tribunal has restricted the wage rise to 1 April 2015. This step is important. It shows that the Tribunal was not inclined to accept the demands of the union without scrutiny. It indicates that the Tribunal weighed the financial material produced by the petitioner and arrived at a date it found reasonable.

21. This selective acceptance of the union's demands reflects due application of mind. A Tribunal that accepts every demand without analysis would fail in its duty. A Tribunal that rejects the demands without considering the workmen's position would also fail. The Tribunal in the present case has avoided both extremes. It has taken a balanced view by granting relief only from a date that, in its opinion, could be supported by the financial material placed before it.

22. As regards depreciation, the petitioner has placed on record its profit and loss accounts. These documents show the figures

claimed under the head of depreciation. However, the petitioner has not produced any independent material to explain how these figures were arrived at. There is no document to show that depreciation was claimed in accordance with Section 32 of the Income Tax Act. There is no supporting statement to show the nature of machinery, the year of purchase, the rate of depreciation or the basis on which the amount was calculated.

23. In wage adjudication, such unsupported figures cannot be accepted at their face value. Depreciation is a matter of factual proof. The employer must show the real depreciation arising from the use of machinery and equipment. The employer must also show that the figure claimed is not inflated or notional.

24. In the absence of this material, the Tribunal has rightly treated the depreciation figures with caution. The Tribunal has followed the settled principle that depreciation cannot be allowed on a mere notional basis. The Tribunal has also recorded that the petitioner has not proved actual depreciation due to wear and tear. This finding is based on the material, or rather the lack of material, placed on record. It does not suffer from any infirmity.

25. On the issue of comparison with other industries, the Tribunal has examined the material placed before it with the care that such matters demand. The Tribunal has referred to the industries relied upon for comparison and has analysed their wage structures in light of the recognised tests. The petitioner has contended that these industries are not comparable. However, no concrete material has been placed to demonstrate that the nature

of work, the scale of operations, the level of capital investment or the strength of the workforce in those industries is so distinct that any comparison would be misleading.

26. A mere assertion that an industry is different cannot displace the findings of the Tribunal. The law requires the Tribunal to undertake a broad and reasonable comparison, keeping in view the realities of the industry. It is not expected to find industries identical in every respect. It is sufficient if the industries are similar in their essential features.

27. The Tribunal has also relied upon the recognised parameters of wage adjudication, as set out in paragraph 19 of the Award. These include the capacity of the employer to pay, the nature of the work, the conditions of the industry and the prevailing wage structure in comparable establishments. These are well-established considerations in industrial jurisprudence. The Tribunal has applied them in a structured manner.

28. I find no material irregularity in this part of the Award. The Tribunal has exercised its jurisdiction within the framework of settled principles. The findings on comparability are based on the evidence considered by it and do not call for interference.

29. The petitioner has argued that the Tribunal committed an error in placing weight on the profit earned in the year 2016-2017 without adjusting it against the losses suffered in the earlier years. This submission has been considered. The Award shows that the Tribunal has taken into account the financial record placed before it for the entire period from 2010-2011 to 2016-2017. The

Tribunal has referred to the years in which losses were incurred. It has also noted the later improvement in the financial position.

30. The fact that the petitioner earned profit in the year 2016-2017 is a relevant circumstance. Industrial adjudication must proceed on the real financial position of the industry as it stands on the date of consideration. If an industry that has suffered losses in earlier years moves into a phase of profit, such profit cannot be brushed aside on the ground of past losses alone. The Tribunal is required to see whether the employer is presently in a position to bear the burden of wage rise. On this test, the Tribunal was justified in noticing the profit earned in 2016-2017.

31. The Tribunal has also taken a further step to ensure fairness. It has permitted adjustment of the interim wage rise already paid. As a result, though the final wage rise determined is five thousand eight hundred rupees, the actual addition which the petitioner must bear is two thousand eight hundred rupees. This adjustment reflects a balanced approach. It ensures that the workmen receive a reasonable rise. At the same time, it protects the employer from excessive burden.

32. The petitioner has further submitted that the Tribunal failed to consider the losses suffered due to fluctuation in foreign exchange rates. This contention has been examined. Losses arising out of foreign exchange variation form part of the commercial risks of an industry engaged in import-based or export-linked operations. Such losses must be proved with clarity. The employer must place on record the specific transactions affected, the dates of

fluctuation, the extent of variation and the impact of such variation on the profit and loss position. In the present case, no detailed material has been placed before the Tribunal to substantiate the alleged foreign exchange losses. A bare reference to fluctuation in exchange rates cannot form the basis for claiming financial incapacity. The Tribunal is not expected to presume such losses in the absence of proper documentary evidence. The Tribunal can consider only what is proved before it. Where the employer fails to furnish particulars, the Tribunal cannot be faulted for not giving weight to unproved claims. The Tribunal has proceeded on the financial figures supported by record. In the absence of reliable proof, the grievance regarding foreign exchange losses does not survive. The Tribunal cannot be said to have committed any error on this count.

33. On the material placed on record, this net rise cannot be termed unreasonable. The Tribunal has acted within the bounds of its jurisdiction. It has considered the financial figures, the pattern of earlier losses, the later profit and the interim relief already granted. The reasoning adopted is supported by the record. I find no basis to interfere with this part of the Award.

34. Judicial review under Articles 226 and 227 is limited. The Court does not re-appreciate evidence. The Court interferes only when the Award suffers from patent illegality, perversity or violation of law. I do not find such infirmity. The Tribunal has considered relevant factors. The Tribunal has applied settled principles. The Award does not disclose any error apparent on the face of the record.

35. The writ petition fails.
36. The impugned Award dated 29 March 2018 passed by the Industrial Tribunal, Pune in Reference (IT) No. 30 of 2015 is upheld.
37. The petitioner shall continue to comply with the Award, subject to adjustment of interim relief as directed by the Tribunal.
38. The writ petition is dismissed with costs.
39. At this stage, learned Advocate for the petitioner seeks stay of the judgment and order. However, for the reasons stated in this judgment and order, the request for stay is rejected.

(AMIT BORKAR, J.)