

**BEFORE SMT. A. C. RAUT, MEMBER,**  
**INDUSTRIAL COURT, MAHARASHTRA MUMBAI**

**COMPLAINT (ULP) No. 276 of 2025**  
**(CNR No. MH1C01-000618-2025)**

Shri. Vijayanand Surajwali Jaiswar, ... **Complainant.**

**Versus**

M/s. Tata Mill and Another ... **Respondents.**

**:- Order Below Exh. U-2 :-**  
**( Delivered on 16.10.2025 )**

1. The present complaint is filed by the complainant under Section 28 r/w. Items 5, 9 and 10 of Schedule-IV of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practice Act, 1971 (hereinafter referred to as the "MRTU & PULP Act, 1971) and therein the interim relief application filed by the Complainant seeking interim relief, praying for a direction to stay the retirement memo dated 22.09.2025.

2. The facts of the case in nutshell is as under :-

It is submitted that, the Complainant is in the permanent employment of the Respondent Mill and was working in Winding Department on T. No. 749 on the post of R J K cone Winder. The respondent no. 1 is an undertaking in the

cotton textile industry in the local area of Greater Mumbai and respondent no. 2 is its General Manager. The complainant joined the services of the respondent in the year 2008 as a RJK cone Winder.

3. It is further submitted that, on 22.09.2025, he received letter dated 22.09.2025 informing therein that he had completed the age of retirement and hence his service would be terminated as per Clauses 20 (a)/11(a) of the Standing Orders w.e.f. 25.10.2025. It is further submitted that, he is borne in the year 1965. He replied to the said letter of respondents stating that he is physically and mentally fit and also attached the medical certificate, but respondents did not pay any heed. The Complainant is efficient to do the work. As per standing orders, the employee shall retire from service on attaining the age of 60 years, but the employee shall be retained in service, if he continues to be efficient upto the age of 63 years. The efficiency of the complainant has never been challenged by the respondents. Hence, the Respondent Mill, in violation of the Standing Order 20-A, is forcibly retiring the Complainant. Thus, the respondents have committed unfair labour practices under Items 5, 9 and 10 of Schedule-IV of the MRTU & PULP Act. Complainant has a strong prima facie case and balance of convenience also lies in his favour. Hence, he prayed for grant of the interim reliefs.

4. The Respondents have filed their Reply at Exh. C-2 and opposed the application. It is admitted that the complainant is working with the respondent mill as a R. J. K. Cone Winder and governed under the provisions of the Maharashtra Industrial Relations Act, 1946. It is further admitted that, they served a memo of retirement on the complainant dated 22.09.2025. It is further submitted that, as per Clause 20-A of the Certified Standing Orders, the complainant is served with the retirement memo. It is further submitted that, after declaring lock-down from March 2020, the activities of the Respondent Mill are discontinued and that the Government of India is financing the Mills towards the payment of salary and other legal dues. The employees are getting only 50% of their normal salary. It is contended that the Respondent Mill has no funds to re-start the Mills and hence under these circumstances, the Respondent cannot give extension to the Complainant after he attains the age of 60 years. There are several excess employees and the production activities have been discontinued and hence retrenchment has become necessary. The Respondent Mill has, therefore, entered into an agreement with the Union to reduce the excess operatives and clerks. No unfair labour practice is committed by the Respondent, as alleged. No prima facie case is made out by the Complainant. Balance of convenience tilts in favour of the Respondent Mill rather than the Complainant. Hence, the Application be rejected.

5. Heard Ld. Advocate Shri A.M. Koyande for the Complainant and Ld. Advocate Shri M.V. Bhat for the Respondents.

6. In view of the rival submissions of the parties, following points arise for my determination. I have recorded my findings thereon. The reasons are given below -

	<b><u>POINTS</u></b>		<b><u>FINDINGS</u></b>
1.	Whether the Complainant has made out prima-facie case of unfair labour practice?	:-	In the affirmative.
2.	Whether balance of convenience is in favour of the Complainant?	:-	In the affirmative.
3.	Whether the Complainant is entitled for relief sought?	:-	In the affirmative.

**:- REASONS :-**

7. **As to Points No. 1 to 3** :- It is undisputed that, the Complainant is working as employee in the Mill. On 22.09.2025, the Respondent Mill has issued letter dated 22.09.2025 to the Complainant retiring him w.e.f. 25.10.2025 after office hours.

8. The complainant has filed documents with list Exh. U-4. Document no. 1 is the copy of retirement memo dated 22.09.2025. Perusal of said retirement memo, it reveals that the Respondent Mill has mentioned therein that the Complainant

has completed age of 60 years. The Complainant is unable to fulfill conditions as per Clause 20-A of Standing Orders. Hence, it will be presumed that Complainant has retired with effect from the closing hours of 25.10.2025.

9. Clause No.20-A of Standing Orders is reproduced below -

“20-A:- An Operative shall retire from service on attaining the age of 60 years, but a male operative shall be retained in service, if he continues to be efficient upto the age of 63 years, provided that when retrenchment becomes necessary, a person who has completed the age of 60 may be retired in preference to younger men.”

10. On further perusal of retirement memo, it is not mentioned/explained in the retirement memo dated 22.09.2025 as to how the Complainant is unable to fulfill conditions mentioned in Clause 20-A of the Standing Orders. Clause 20-A can be divided into two parts. Firstly that a male operative shall be retained in service after the age of 60 years, if he continues to be efficient upto the age of 63 years. The second part is that when retrenchment becomes necessary, a person who has completed the age of 60 years, may be retired in preference to younger men.

11. With regard to the first part of Clause 20-A, it is the claim of the Complainant being the male employee, he continues to be efficient and hence he is entitled to be retained in service after the age of 60 years and continued till the age of 63 years. The Respondent Mill has not filed document like medical report of the Complainant to show that the Complainant is inefficient.

12. Now coming to the second part of Clause 20-A, the phrase “when retrenchment becomes necessary”, is more important. It is thus imperative that this part comes into play when ultimately reduction does take place in the number of workmen or the posts, as the case may be. At this interim stage, the Respondents have not pointed out any such circumstance warranting retrenchment and in any case, the same is required to be done by complying due process of law.

13. Ld. Advocate for Respondents has heavily emphasized on the point that relief in the nature of final relief cannot be granted at the interim stage. Here, in the present case, the retirement memo has been issued by adverting to Clause 20-A of the Standing Orders. Prima facie, it is proved that the Complainant is fulfilling the requirements laid down in Clause 20-A. The Respondents have prima facie failed to prove that the Complainant is not efficient to be retained in service after the age of 60 years. An act of the Respondent Mill to issue

retirement memo to the Complainant without mentioning as to how the Complainant cannot fulfill requirement of Clause 20-A of Standing Orders is prima facie unfair labour practice. Even otherwise, Clause 20-A is very specific and it stipulates that a male operative shall be retained in service after the age of 60 years, if he continues to be efficient upto the age of 63 years. Thus, efficiency of the Complainant is of paramount importance, which in this case, prima facie the Complainant has proved.

14. The Respondent Mill has come up with the defence that after declaring the lock-out from March 2020, the activities of the Respondent Mill are completely closed down and the employees are getting only 50% of their normal salary and further that the Mill is not having funds to restart the Mills. Admittedly, as per Clause 20-A of the Standing Orders, a male operative shall be retained in service if he continues to be efficient upto the age of 63 years. In the present case, as observed above, the Respondent Mill has not produced on record any admissible document to prove that the Complainant is inefficient and hence not entitled to be continued upto the age of 63 years. The Respondent Mill cannot give a go-bye to Clause 20-A of the Standing Orders by taking the defence that the activities of the Mill are completely closed down, except by following due process of law. It is, therefore, balance of convenience is in favour of the Complainant because if relief sought by him is not granted, he will be out of service. On the

other hand, if relief sought by the Complainant is granted, no prejudice would be caused to the Respondent as the Respondent Mill would get services of an experienced employee. So, I come to conclusion that the Complainant is entitled for the relief sought in this Application. As the Complainant succeeded to prove his case, Point Nos.1 to 3 are answered in the Affirmative. In the result, following Order is passed:-

### ORDER

- i. The Application is allowed.
- ii. The effect and implementation of the retirement memo dated 22.09.2025 is hereby stayed, until further orders.
- iii. The Respondent Mill is directed to continue the Complainant in service until further orders.
- iv. The hearing of the complaint is expedited and shall be disposed of within a period of three months from today.
- v. Both parties are directed to cooperate this Court for expeditious disposal of the complaint.

Place :- Mumbai

(Smt. A. C. Raut),  
Member,

Date :- 16.10.2025.

Industrial Court, Mumbai

SPC/-