

**IN THE COURT OF THE LABOUR COURT AT SALEM  
(CAMP COURT AT DHARMAPURI)**

**Present: Mrs. M. Shanthi, B.Sc., B.L.,**  
Presiding Officer,  
Labour Court, Salem.

Saturday, dated this 18<sup>th</sup> day of April 2026.

**I.D. No.45/2022**

**CNR No. TNSA020001182022**

P. Saravanan, (Aged 35 years)

S/o. Pandurangan,

1/161-A, Keel theru, Pachinampatti,

Selliyampatti,

Dharmapuri District – 636 809.

... Petitioner

-Versus-

Chief Executive Officer,

EDG Pharmaceuticals (India) Private Limited,

131, Kalidass Road,

Ram Nagar,

Coimbatore District - 9.

... Respondent

This Industrial Dispute petition came up for final hearing before this court on 27.03.2026 in the presence of Mr. Pon. Ramani, Authorized representative for the petitioner, and initially in the presence of Mr. R. Kalaiarasu and Mr. Ilaiyaraja, Advocates for respondent and later in the presence of Mr. R. Parthiban, Advocate for the respondent and after perusing material records of both side and written argument of respondent side, upon hearing both side arguments and having stood over till this day for consideration, this court had passed the following :-

**AWARD**

This Industrial dispute original petition had been filed under Section 2A(2) of Industrial Disputes Act 1947 to set aside the order of dismissal dated 27.09.2021 by respondent against the petitioner and to reinstate the petitioner with continuity of service, back wages and other attendant benefits and litigation cost of Rs.10,000/-.

**The averments of the petition in brief :**

1. The petitioner had joined the respondent company on 13.05.2017 as a Medical Sales Representative and he was posted at Dharmapuri by the respondent. His monthly salary was Rs.15,000/-. He had performed his duties diligently and efficiently by promoting and selling the respondent medicine products to doctors in Dharmapuri. There had been no allegations of misconduct or indiscipline against him during the course of his employment. On 30.08.2021, the Sales Manager of the respondent had issued a notice stating that the business operations at Dharmapuri would be discontinued with effect from 01.10.2021. Subsequently, by an order dated 27.09.2021 the petitioner was terminated from service under the retrenchment by the Sales Manager. The reason assigned by the respondent for retrenching the petitioner on the ground of lack of business was unjustified.

2. The petitioner was not issued any show cause notice prior to retrenchment. No retrenchment compensation was paid to him. He was not given any opportunity to put forth his case or defend himself against the proposed retrenchment. He had worked

for more than 240 days in a year preceding the date of termination. He was originally appointed by the Chief Executive Officer of the respondent company. The Sales Manager, who had issued the retrenchment order dated 27.09.2021, had no authority to terminate him. Hence, the said order was illegal and not sustainable in law.

3. Aggrieved by the illegal retrenchment, the petitioner had raised an Industrial Dispute before the Assistant Commissioner of Labour, Krishnagiri, and participated in Conciliation proceedings. However, the respondent failed to come forward for an amicable settlement. Consequently, the Assistant Commissioner of Labour issued a Failure Report in Na.Ka.No.A/555/2021 dated 02.02.2022. The respondent company employed more than 50 workmen, and therefore the provisions of Provident Fund and ESI Acts were applicable. However, the respondent had failed to extend such statutory benefits to the petitioner and other employees, thereby depriving them of their lawful entitlements. Hence petitioner prayed to allow this claim petition.

**The averments of the counter statement in brief:**

4. The claim petition filed by the petitioner was not maintainable under the provisions of the Industrial Disputes Act, 1947. The respondent company was engaged in the wholesale distribution of pharmaceutical products. The petitioner was governed by the provisions of The Sales Promotion Employees (Conditions of Service) Act, 1976 and therefore he was entitled to seek relief only under the said Act. The respondent company had been incurring substantial losses due to a decline

in sales over the past three years. At the Dharmapuri headquarters, the employees concerned had generated sales of Rs.6,48,481/- during the financial year 2019–2020, Rs.4,09,120/- during the financial year 2020–2021, and Rs.79,403/- during the period from April to August 2021. Due to such poor sales performance, the company had suffered heavy financial losses.

5. Similarly, all headquarters outside Coimbatore had recorded low sales and incurred losses. On 28.08.2021, the management had convened a meeting at the Coimbatore office, wherein all Zonal and Area Sales Managers were called upon to attend. During the said meeting, the management had informed the entire sales team that the company would discontinue its operations in all headquarters except Coimbatore with effect from 01.10.2021. Further, since the company had been operating under losses and there was already surplus staff at Coimbatore, it had not been possible to provide employment to the petitioner at Coimbatore.

6. On 30.08.2021, a termination notice had been issued to the petitioner. The petitioner was informed that the company would consider reappointing sales employees once the business stabilized in the future. Subsequently, on 27.09.2021, the petitioner was issued a further communication stating that the company would settle his final dues upon submission of No Objection Certificates from stockists and clearance of company assets, pending amounts and stock-related matters.

7. The petitioner had failed to return the company bag issued to him and had not properly collected and remitted the outstanding amounts due from stockists to the respondent company. Consequently, the final settlement had not been made. The stockists under the petitioner responsibility namely Satya Pharma Agency, Dharmapuri had an outstanding amount of Rs.11,675/- and Thagadur Pharma, Dharmapuri had an outstanding amount of Rs.28,776/-. The petitioner had failed to submit accounts for the said amounts to the respondent till date. Therefore, the petitioner was solely responsible for the non-settlement of his accounts. The petitioner suppressing the above material facts, had filed the present claim petition based on false and misleading allegations. Hence, the present petition filed by the petitioner was liable to be dismissed.

8. For petitioner side W.W.1 was examined and Ex.W1 was marked and for respondent side their Manager Mr. R. Kalaiselvan was examined as M.W.1 and Ex.M1 to Ex.M3 were marked.

**Points for consideration :-**

1. Whether the petitioner who worked as medical sales representative is a workman under Section 2(s) of Industrial Disputes Act ?

2. Whether the order of dismissal of petitioner can be set aside under Section 2A(2) of Industrial Disputes Act ?

3. Whether the petitioner is entitled for reinstatement with back wages, continuity of service and other benefits as prayed for ?

**Findings on point no.1 to 3:-**

9. Heard both side and all material records were carefully perused. All the points are taken up together for common consideration for convenience as well as for continuity and brevity in discussions. According to the petitioner, he had joined in the respondent management on 13.05.2017 as medical sales representative and his monthly salary was Rs.15,000/- and he was doing sales promotion work of respondent company medicine products with doctors in Dharmapuri. The sales in charge of respondent had issued notice dated 30.08.2021 by stating the medical sales of respondent company would be stopped in Dharmapuri from 01.10.2021 by giving one month notice pay without compliance of Section 25-F and 25-G, the petitioner was retrenched on 27.09.2021 and M.W.1 in this regard, had admitted in cross examination that they are not closing the entire business and only branch were closed.

10. The petitioner had worked more than 240 days in a year proceeding to dismissal and he can not be dismissed by unlawful manner. Hence the petitioner had raised Industrial Dispute before the Assistant Commissioner of Labour and after negotiation, the authority had issued Ex.W1 Conciliation Failure Report in Na.Ka.No.A555/2021 dated 02.02.2022. The petitioner is a workman under Section 2(s) of Industrial Dispute Act. Hence the petitioner had prayed to allow the petition claim.

The following citations were submitted by the petitioner,

1. 2006(2) L.L.N. 430
2. 2008(1) L.L.N. 628
3. 2009 - III - L.L.J. 513 (GAU)
4. 2019 - III - L.L.J. 29 (GAU)
5. 2025 - II - L.L.J. 44 (MAD)

11. Whereas according to the respondent, the petitioner is not a workman under Section 2(s) of Industrial Disputes Act and petitioner is an employee governed by the provisions of The Sales Promotion Employees (Conditions of Service) Act, 1976, the present petition is not maintainable. He was appointed as Territory Manager of respondent company at Dharmapuri and holding the post of certain areas of Salem zone for sales promotion and admittedly the petitioner was doing the work of promoting the sales of medicine supplied by the respondent company and the petitioner did not raise dispute against the relieving order dated 30.08.2021 and disputed only the subsequent communication letter dated 27.09.2021 by management which is unsustainable in law.

12. Due to non-viability of running business outside Coimbatore and after discussion with petitioner and other co-officials the management was compelled to relieve him from service and after issuance of discontinuation of employment order dated 30.08.2021, he was paid entire legal dues with ex-gratia as full and final settlement and the petitioner had received the same and there is no employer

employee relation between the company and the petitioner. The petitioner had failed to prove his status as workman under Industrial Disputes Act, the allegation of violation of Industrial Disputes Act does not arise. The petitioner in cross examination had admitted that The Sales Promotion Employees (Conditions of Service) Act, 1976 were applicable to him and only in Section 2(zr) of Industrial Relations Code, 2020, the Sales Promotion Employees were included which was not so in Section 2(s) of Industrial Disputes Act. As this Court has no jurisdiction to adjudicate the dispute the petition is not maintainable and hence prayed to dismiss the claim with cost.

13. According to the petitioner, he is a medical representative comes under the definition of Section 2(s) of Industrial Dispute Act read with Section 6(2) of The Sales Promotion Employees (Conditions of Service) Act 1976 and the industrial dispute petition is maintainable before the Court. In contrary, it is the contention of the respondent that the petitioner is not a workman under Section 2(s) of Industrial Disputes Act and the present petition is not maintainable.

14. While considering the nature of work carried out by the petitioner the averments of petition and chief examination proof affidavit of P.W.1 reveals that he had joined as medical sales representative and was doing sales promotion work of respondent company medicines by contacting the doctors in Dharmapuri District. During cross examination P.W.1 had deposed that “நான் எதிர்மனுதாரர் நிறுவனத்தில் விற்பனை பிரதிநிதியாக பணிபுரிந்தேன் என்றால் சரிதான். நான் மருத்துவரை சந்தித்து



பேசிய பிறகு டாக்டர் ஆர்டர் கொடுப்பதன் பேரில் மொத்தமாக மருந்து சப்ளை செய்வார்கள் ..... எதிர்மனுதாரர் நிறுவனத்தில் சேல்ஸ் மற்றும் புரமோசன் துறையில் இருந்தேன் என்றால் சரிதான் ..... நான் விற்பனை பிரதிநிதி என்பதால் தொழிற்சாலை சட்டத்தில் தொழிலாளி என்ற வரையறையில் வரமாட்டேன் என்றும் அதனால் மனு சட்டப்படி நிலைக்கத்தக்கதல்ல என்றும் சொன்னால் சரியல்ல. நான் விற்பனை ஊக்குவிப்பு தொழிலாளர் சட்டத்தின் கீழ் வருவேன் என்பது தெரியுமா என்றால் தெரியும்.”

15. The medical representatives whether would come within the purview of Section 2(s) of Industrial Disputes Act had already been decided by the Hon'ble Supreme Court of India in H.R.Adyanthaya Vs. Sandoz (India) Limited, dated 11.08.1994 where in the Hon'ble Supreme Court after consideration of Section 2(s) of Industrial Disputes Act and Section 6(2) of The Sales Promotion Employees (Conditions of Service) Act 1976 had observed as follows,

*“17. A still later decision of a two-judge Bench of his Court in T.P. Srivastava v. National Tobacco Co. of India Ltd.9 by referring to the decision in Burmah Shell case has also reiterated the law laid down in May & Baker case. There the employee concerned was a Section Salesman of the company whose services were terminated w.e.f. 12-7-1973. The Court held that in order to come within the definition of workman under the ID Act the employee had to be employed to do the work of one of the types referred to in the main body of the definition. The Court also referred to the Sales Promotion Employees*

*(Conditions of Service) Act, 1976 and pointed out that the provisions of that Act were not made applicable to the employees of the company. The Court further pointed out that the object of the said Act would show that persons employed for sales promotion normally would not come within the definition of workman under the ID Act. The Court accordingly upheld the decision of the Labour Court that the employee was not a workman within the meaning of the ID Act.”*

16. Hence it is clear that the sales promotion employees like medical representatives are not workman under Section 2(s) of Industrial Disputes Act as their work is not manual, skilled, unskilled, technical, operational, clerical or supervisory and the interpretive principle ejusdem generis precludes stretching the word skilled or operational to cover sales promotional functions. By applying the said principle it is clear that the petitioner's own pleadings and testimony established that he was appointed on 13.05.2017 as medical sales representative having the job of meeting doctors explaining the products of respondent pharma company and promoting sales and his duties, characteristics of sales promotion roles which does not comes within the purview of Section 2(s) of Industrial Disputes Act.

17. As per the dictum of Hon'ble Apex Court, the Sales Promotion Employees (Conditions of Service) Act, 1976 does not amend or expand the definition of workman under Section 2(s) of Industrial Disputes Act and hence the sales promotion employees cannot be transformed into workman. Further the Hon'ble High Court of Delhi in the decision dated 06.10.2025 in Samarendra Das Vs. M/s.Win Medicare

Private Limited, had observes as follows,

*“12. The issue of whether or not sales personnel are workman is no longer res integra. The Supreme Court in H.R. Adyanthaya case has held that the sales representatives who are involved in pharmaceuticals are not workmen and that to treat such persons as workmen would be contrary to the law, as a person to be qualified as a workman, must be doing the work which falls in a category, manual, clerical, supervisory or technical. It is apposite to set out the relevant extract below:*

*"33. It was contended by Shri Sharma, appearing for the workmen that the definition of workman under the ID Act includes all employees except those covered by the four exceptions to the said definition. His second contention was that in any case, the medical representatives perform duties of skilled and technical nature and, therefore, they are workmen within the meaning of the said definition. We are afraid that both these contentions are untenable in the light of the position of law discussed above. The first contention was expressly negatived by two three-Judge Benches in May & Baker [(1961) 2 LLJ 94 : AIR 1967 SC 678 : (1961) 2 FLR 594] and Burmah Shell [(1970) 3 SCC 378 : (1971) 2 SCR 758 : AIR 1971 SC 922 : (1970) 2 LLJ 590] cases as has been pointed out in detail above. As regards the second contention, it really consists of two sub-contentions, viz., that the medical representatives are engaged in 'skilled' and 'technical' work. As regards the word 'skilled', we are of the view that the connotation of the said word in the context in which it is used, will not include the work*

*of a sales promotion employee such as the medical representative in the present case. That word has to be construed ejusdem generis and thus construed, would mean skilled work whether manual or non-manual, which is of a genre of the other types of work mentioned in the definition. The work of promotion of sales of the product or services of the establishment is distinct from and independent of the types of work covered by the said definition. Hence the contention that the medical representatives were employed to do skilled work within the meaning of the said definition, has to be rejected. As regards the 'technical' nature of their work, it has been expressly rejected by this Court in *Burmah Shell case* [(1970) 3 SCC 378 : (1971) 2 SCR 758 : AIR 1971 SC 922 : (1970) 2 LLJ 590]. Hence that contention has also to be rejected.*

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*37. We are afraid that these contentions are not well placed. We have already pointed out as to why the word 'skilled' would not include the kind of work done by the sales promotion employees. For the very same reason, the word 'operational' would also not include the said work. To hold that everyone who is connected with any operation of manufacturing or sales is a workman would render the categorisation of the different types of work mentioned in the main part of the definition meaningless and redundant. The interpretation suggested would in effect mean that all employees of the*

*establishment other than those expressly excepted in the definition are workmen within the meaning of the said definition. The interpretation was specifically rejected by this Court in May & Baker [(1961) 2 LLJ 94 : AIR 1967 SC 678 : (1961) 2 FLR 594] , WIMCO [(1964) 3 SCR 560 : AIR 1964 SC 472 : (1963) 2 LLJ 459] , Burmah Shell [(1970) 3 SCC 378 : (1971) 2 SCR 758 : AIR 1971 SC 922 :*

*(1970) 2 LLJ 590] and A. Sundarambal [(1988) 4 SCC 42 : 1988 SCC (L&S) 892] cases. Although such an interpretation was given in S.K. Verma [(1983) 4 SCC 214 : 1983 SCC (L&S) 510 : (1983) 3 SCR 799] , Delton Cable [(1984) 2 SCC 569 : 1984 SCC (L&S) 281 : (1984) 3 SCR 169] and Ciba Geigy [(1985) 3 SCC 371 : 1985 SCC (L&S) 808 : 1985 Supp (1) SCR 282] cases the legislature impliedly did not accept the said interpretation as is evident from the fact that instead of amending the definition of 'workman' on the lines interpreted in the said latter cases, the legislature added three specific categories, viz., unskilled, skilled and operational. The 'unskilled' and 'skilled' were divorced from 'manual' and were made independent categories. If the interpretation suggested was accepted by the legislature, nothing would have been easier than to amend the definition of 'workman' by stating that any person employed in connection with any operation of the establishment other than those specifically excepted is a workman. It must further be remembered that the*

*independent categories of 'unskilled', 'skilled' and 'operational' were added to the main part of the definition after the SPE Act was placed on the statute book."*

*[Emphasis Supplied] 12.1 In addition, the Supreme Court in Bharat Bhawan Trust v. Bharat Bhawan Artists' Association & Anr.<sup>3</sup>, while relying on the T.P. Srivastava v. M/s National Tobacco Co. of India Limited<sup>4</sup>, has held that sales persons employed in canvassing for promotion of sales could not be held in the category of a workman. It is apposite to set out the relevant extract of the Bharat Bhawan Trust case below:*

*"4. Dr L.M. Singhvi, learned Senior Advocate appearing for the appellant, submitted that the appellant is a unique institute of its kind in the country set up by the Government of Madhya Pradesh where all forms of arts such as performing arts, fine arts, music, drama, poetry and tribal arts are preserved, promoted and developed. He submitted that although this Court in Bangalore Water Supply & Sewerage Board v. A. Rajappa [(1978) 2 SCC 213 : 1978 SCC (L&S) 215] has given a very wide meaning to both the expressions of "industry" and "workman", by no stretch of imagination the appellant could be characterised as an industry, which is engaged in an aesthetic activity. He also drew our attention to the decisions in Advertising Corpn. of India v. Barendra Chandra Nag [(1958) 2 LLJ 448 (LAT)] ; A. Sundarambal v. Govt. of Goa, Daman & Diu [(1988) 4 SCC 42 : 1988 SCC (L&S) 892] (in which teachers were held not to be workmen*

*although the educational institutions where they served may be "industry") and T.P. Srivastava v. National Tobacco Co. of India Ltd. [(1992) 1 SCC 281 :*

*1992 SCC (L&S) 263] wherein this Court held that duties of a salesman employed for canvassing and promoting sales of company's (2001) 7 SCC 630 (1992) 1 SCC 281 product in an area involves suggesting of ways and means to improve sales, study of type or status of the public to whom the product has to reach, study of market condition and supervising work of other local salesmen, cannot be termed to be either manual, skilled, unskilled or clerical in nature but requires an imaginative and creative mind and such a person cannot be termed as "workman". He also submitted that the incidental activity entrusted to the respondent artists are all connected with the production of drama and theatre management and, therefore, cannot be taken to be a separate activity to class them as workmen. He submitted that the view taken by the Labour Court needs to be corrected at our hands.*

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*11. The work that the respondents perform is in the nature of a creative art and their work is neither subject to an order required from the Art Director nor from any of the artists. In performing their work, they have to bring to*

*their work, their artistic ability, talent and a sense of perception for the purpose of production of drama involving in the course of such work, the application of the correct technique and the selection of the cast, the play, the manner of presentation, the light-and- shade effects and so on. In effect, the work they do is creative art which only a person with an artistic talent and requisite technique can manage. To call such a person, a skilled or a manual worker is altogether inappropriate. An artist must be distinguished from a skilled, manual worker by the inherent qualities, which are necessary in an artist, allied to training and technique. We derive support for this proposition from T.P. Srivastava v. National Tobacco Co. of India Ltd. case [(1992) 1 SCC 281 : 1992 SCC (L&S) 263] wherein section salesman employed for canvassing and promoting sales of company's products in an area could not be put under the category of a "workman".*

18. As per the said decision also the sales promotion employee / sales representatives does not fall in the category of workman. Hence, this Court of view that the petitioner being medical sales representative does not fall under the term workman in terms of Section 2(s) of Industrial Dispute Act and the point no.1 is decided accordingly.

19. Since it had been decided that the petitioner is not a workman within the definition of Section 2(s) of Industrial Disputes Act, the present industrial dispute



petition is not maintainable before this Court. Hence consideration of averments of petitioner that the respondent without following the provisions of Industrial Dispute Act had retrenched the petitioner does not arise. Hence the petitioner is not entitled for any of the claimed relief of setting aside the order of dismissal or reinstatement with back wages and other benefits and the point no.2 and 3 are decided accordingly.

In the result the industrial dispute petition is dismissed. No Cost.

Directly dictated to steno typist, typed by him, corrected and pronounced by me in the open court, the 18<sup>th</sup> day of April 2026.

Presiding Officer,  
Labour Court, Salem.

### **APPENDIX OF EVIDENCE**

#### **List of Witness :-**

#### **For Petitioner Side :-**

W.W.1 - Mr. Saravanan (Petitioner)

#### **For Respondent Side :-**

M.W.1 – Mr. Kalaiselvan

#### **List of Documents:-**

#### **For Petitioner Side:-**

|       |            |                                        |
|-------|------------|----------------------------------------|
| Ex.W1 | 02.02.2022 | Conciliation Failure report - Original |
|-------|------------|----------------------------------------|

**For Respondent Side :-**

|       |            |                                                                                        |
|-------|------------|----------------------------------------------------------------------------------------|
| Ex.M1 | -          | Letter of Authorization given by respondent – True copy                                |
| Ex.M2 | 30.08.2021 | Notice sent to petitioner by respondent – Office copy and<br>Postal receipt – Original |
| Ex.M3 | 27.09.2021 | Notice sent to petitioner by respondent – Office copy and<br>Postal receipt – Original |

Presiding Officer,  
Labour Court, Salem.

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LABOUR COURT, SALEM.

Fair Order copy

I.D.No. 45/2022

DATED : 18.04.2026

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**Before the Labour Court at Salem**

**I.D.No. 45/2022**

**Dated : 18.04.2026**

**Award pronounced**

In the result the industrial dispute  
petition is dismissed. No Cost.

Presiding Officer,  
Labour Court, Salem.