

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT SRINAGAR**

**WP(C) 1822/2023  
CM (4250/2023)**

**Mr Pascal Postel and Ors.**

**...Petitioner(s)**

Through: Mr. Mujeeb Omar Fazali, Advocate

**Jammu & Kashmir Industrial Tribunal and  
Labour Court and Anr.**

**...Respondent(s)**

Through: None

**CORAM:**

**HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE**

**ORDER**

17.09.2025

1. The respondent No. 2-Sajad Ahmad Bhat, was engaged by Franco Indian Pharmaceutical Private Limited, a Mumbai based company, to be its Medical Representative and at the relevant point of time was posted in Srinagar.

2. The engagement of respondent No. 2-Sajad Ahmad Bhat was as Area Manager.

3. The respondent No. 2- Sajad Ahmad Bhat came to suffer disengagement from the service of Franco Indian Pharmaceutical Private Limited on **15.02.2019.**

4. The respondent No. 2-Sajad Ahmad Bhat felt aggrieved of his said disengagement, which was reckoned by him to be offending the provisions of the Industrial Disputes Act, 1947 and thus initiated proceedings before the Conciliation Officer i.e., Deputy Labour Commissioner, Kashmir in which the representatives/officials of the Franco Indian Pharmaceutical Private Limited were summoned to appear.

5. The conciliation proceedings resulted in failure on **17.12.2019** to which effect the Conciliation Officer concerned generated a failure report dated **24.12.2019** purportedly acting under Section 12(4) of Industrial Disputes Act, 1947.

6. Instead of submitting the failure report to the concerned Government for onward course of action under the Industrial Disputes Act, 1947, the Conciliation Officer came to refer his conciliation report directly to the J&K Industrial Tribunal and Labour Court, Jammu & Kashmir, Srinagar which was taken on File No. **1068/ITLC/2019** dated **27.12.2019**.

7. The entertainment of the matter by the Jammu & Kashmir Industrial Tribunal and Labour Court,

Jammu & Kashmir, Srinagar in the manner as done by submission of the failure report of the Conciliation Officer was objected to by the officials of the Franco Indian Pharmaceutical Private Limited by questioning the very availability of the jurisdiction of the Jammu & Kashmir Industrial Tribunal and Labour Court, Jammu & Kashmir, Srinagar without there being a statutory reference under Section 10 of the Industrial Disputes Act, 1947 coming forth from the appropriate Government with respect to the legality and validity of the dismissal of the respondent No. 2-Sajad Ahmad Bhat.

8. Said objection of the Franco Indian Pharmaceutical Private Limited through its officials came to be overruled by the Jammu & Kashmir Industrial Tribunal and Labour Court, Jammu & Kashmir, Srinagar by virtue of an order dated **17.03.2023** which has come to be questioned in the present writ petition by the petitioners, all of whom are the officials of the Franco Indian Pharmaceutical Private Limited.

9. The respondent No. 2-Sajad Ahmad Bhat has appeared through his counsel Mr. Shahid Zamir, Advocate.

10. When this Court peruses the impugned order dated **17.03.2023** in the light of the position of law as envisaged under the Industrial Disputes Act, 1947, this Court is of the confirmed view that perhaps the Jammu & Kashmir Industrial Tribunal and Labour Court, Jammu & Kashmir, Srinagar was labouring under a misplaced conception about the position of law obtaining under the Industrial Disputes Act, 1947.

11. The Industrial Disputes Act, 1947 had come to suffer an amendment in the year 2010, under the Industrial Disputes (Amendment) Act No. 24 of 2010 which lasted only up to **6<sup>th</sup> May, 2016**, when by virtue of repealing an Amending Act, 2016 dated **6<sup>th</sup> May, 2016** passed by the Parliament of India, the Industrial Disputes (Amendment) Act No. 24 of 2010 as a whole was repealed. This position is forthcoming from the Gazette Notification of Repeal and Amending Act, 2016 as placed on record by the learned counsel for the petitioners.

12. Thus, by the time the respondent No. 2-Sajad Ahmad Bhat had come to agitate the issue about his disengagement/dismissal, the original position of law obtaining under the Industrial Disputes Act, 1947 was that without any reference coming forth from the

appropriate Government to the Industrial Tribunal/  
Labour Court, no original proceedings could come  
forth on the file of the Jammu & Kashmir Industrial  
Tribunal and Labour Court, Jammu & Kashmir,  
Srinagar.

13. Thus, the Jammu & Kashmir Industrial Tribunal  
and Labour Court, Jammu & Kashmir, Srinagar fell  
into a manifest error of judgment by acting in  
ignorance of the true position of the Industrial  
Disputes Act, 1947 thereby rendering its order dated  
**17.03.2023** as bad in the eyes of law, which is  
accordingly set aside.

14. This Court directs the Conciliation Officer  
concerned, who had submitted the failure report dated  
**24.12.2019** to the Jammu & Kashmir Industrial  
Tribunal and Labour Court, Jammu & Kashmir,  
Srinagar to seek return of the said failure report from  
the Industrial Tribunal and resubmit it to the  
appropriate Government for the future course of  
action as envisaged under the Industrial Disputes Act,  
1947.

15. Copy of this order be forward to the Conciliation  
Officer, under the Industrial Disputes Act, 1947 (Dy.  
Labour Commissioner, Kashmir), who had submitted

the failure report dated **24.12.2019** to the Jammu & Kashmir Industrial Tribunal and Labour Court, Jammu & Kashmir, Srinagar for the sake of notice and compliance.

**(RAHUL BHARTI)**  
**JUDGE**

**SRINAGAR:**

17.09.2025

"Mir Arif"

