**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P.(L) No. 24 of 2025**

M/s. Torrent Pharmaceutical Limited, a Company incorporated under the Laws of India, having its registered office at Torrent House, Off Ashram Road, Ahmedabad, P.O. & P.S. Ahmedabad, District Ahmedabad, Gujarat, PIN-380009, through its Authorised Signatory namely Anand Iyer, aged about 56 years, Son of Hariharan Iyer, resident of Ramdev Nagar, Ahmednagar Road, P.O. Ahmedabad, P.S. Ahmedabad, District-Ahmedabad, PIN 380015 (Gujarat).

**… … Petitioner**

Versus

Shahbaz Khan, son of Sohrab Khan, resident of Shamsher Nagar, Near Eid-gah, Lane No.-8, Pandarpala, P.O. Polytechnic Dhanbad, P.O. & P.S. Dhanbad, District Dhanbad, Jharkhand, PIN 828130

**… … Respondent**

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**CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY**

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For the Petitioner : Mr. Nipun Bakshi, Advocate
: Mr. Shubham Sinha, Advocate
For the Respondent : Mr. Zaid Imam, Advocate
: Mr. Zeeshan Ahmed Khan, Advocate
: Mr. Biplav Bhuiyan, Advocate

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18/**27.08.2026**

**1.** Heard the learned counsel appearing on behalf of the parties.

**2.** This writ petition has been filed for the following reliefs: -

*"(i) For issuance of appropriate writ, rule or direction and more specifically a Writ of Certiorari for quashing and/or setting aside the order dated 20.08.2024* ***[Annexure-20]*** *passed by Smt. Prem Lata Tripathi, the learned Presiding Officer, Labour Court, Dhanbad, in I.D. Case No. 01 of 2023, allowing the application for amendment of the case by permitting the Respondent (applicant) to also assail the Termination/Dismissal Order dated 26.04.2021, which is contrary to the provisions of Section 11(3) of the Industrial Disputes Act, 1947 and is also without jurisdiction as no conciliation proceedings preceded the challenge to the Dismissal Order which is a sine qua non for invoking the*

*provisions of Section 2A(2) of the Industrial Disputes Act, 1947.*

*ii) For issuance of a Writ of Prohibition to the learned Labour Court as jurisdiction under Section 2A(2) of the Industrial Disputes Act, 1947 can be invoked by an individual workman only when his service has been terminated by his employer and not in any other industrial dispute including transfer which is a normal incidence of service.*

*(iii) For issuance of appropriate writ/order/direction for quashing the entire proceedings in I.D. Case No. 01 of 2023 which is pending before the learned Labour Court at Dhanbad, which has no territorial jurisdiction to adjudicate the dispute between this Petitioner and its employee as both had agreed that Courts at Ahmedabad (Gujarat) alone would have territorial jurisdiction in case of any disputes or differences between them.*

*(iv) For a further direction that the entire proceeding before the learned Labour Court, Dhanbad in exercise of its power under Section 2A(2) of the Industrial Disputes Act, 1947 is without jurisdiction as the individual workman has never raised any industrial dispute before the Conciliation Officer alleging that he has been illegally dismissed from service."*

**3.** ***Learned counsel for the petitioner has submitted*** that the concerned workman had filed I.D Case No. 1 of 2023 by referring to Section 2A(2) of the Industrial Disputes Act 1947, although the complaint was of Unfair Labour Practice under Schedule V Section 2(ra) of subsection 1(a)(b), 5(a)(b), 7, 15 and 33 and other provisions of the Industrial Disputes Act, 1947, wherein, primarily, the order of transfer dated 13.12.2019 was challenged, which was alleged to have been issued by way of punishment.

**4.** He has submitted that, in the written statement filed before the concerned court, the order or dismissal dated 26.04.2021 was referred to and consequently, the concerned workman filed a supplementary

petition seeking amendment of the prayer in the pending case. The petition filed by the concerned workman has been placed on record at Annexure-18. He has submitted that, by this petition, the concerned workman has asserted that he had no knowledge about the order of dismissal and therefore, prayed that the order of dismissal dated 26.04.2021 also be permitted to be challenged by way amendment, along with the order of transfer which was already under challenge. It is this particular petition seeking amendment which has been allowed by the impugned order dated 20.08.2024.

**5.** Learned counsel has submitted that in the present proceedings, there is no question of entering into any factual disputes, as essentially, the relief which has been prayed for by the concerned workman through amendment could not have been entertained by the learned court and hence the order allowing amendment passed by the learned court is wholly without jurisdiction.

**6.** Learned counsel has submitted that the transfer order was under challenge and with respect to challenge to the order of dismissal, the petitioner has to go through the prescribed procedure under the Industrial Disputes Act, 1947 and it cannot be challenged through amendment.

**7.** Learned counsel has submitted that the order of termination could not have been challenged in the pending proceedings by way of amendment, that too by referring to Section 2A of Industrial Disputes Act, 1947 inasmuch as a procedure is prescribed under the law for invoking Section 2A(2) of the Industrial Disputes Act. He has submitted that for the purpose of challenging the order of termination/dismissal, the concerned workman was required either to challenge the order of dismissal in accordance with the procedure prescribed under Section 2A, or the union could have raised an industrial dispute under Section 10 of the Industrial Disputes Act, 1947. He has submitted that the procedure prescribed for challenging the order of dismissal has been completely given a go-by, and the pending petition challenging the transfer order has been sought to be

amended to challenge the order of dismissal. The impugned order allowing amendment is required to be set aside.

**8.** Learned counsel has further submitted that it can still be left open to the concerned workman to take steps to challenge the order of dismissal in accordance with law.

**9.** Learned counsel has further submitted that even the proceedings initiated through I.D Case No. 01 of 2023 is also under challenge and has submitted that the transfer matter could not have been subject to proceedings before the labour court in the manner in which it has been raised.

**10.** Learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court reported in ***(1964) 4 SCR 485 [State of Uttar Pradesh vs. Singhara Singh and Others]*** and has referred to paragraph 8 of the said judgment to submit that, if a statute prescribes that a thing is to be done in a particular way, the same is required to be done in that way, otherwise it could be rendered meaningless. Paragraph 8 is quoted as under: -

> *"**8**. The rule adopted in Taylor v. Taylor3 is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted. A Magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of it made in the manner laid down. If proof of the confession by other means was permissible, the whole provision of Section 164 including the safeguards contained in it for the protection of accused persons would be rendered nugatory. The section, therefore, by conferring on Magistrates the power to record statements or confessions, by necessary implication, prohibited a Magistrate from giving oral evidence of the statements or confessions made to him."*

**11.** He has then referred to judgment passed by Hon'ble Supreme Court reported in ***(2000) 1 SCC 371 [National Engineering Industries ltd vs. State of Rajasthan and Others]*** and has referred to paragraph 24 to submit that if there is a point of jurisdiction, Article 226 of the Constitution of India can be invoked. Paragraph 24 is quoted as under:-

> *"**24**. It will be thus seen that the High Court has jurisdiction to entertain a writ petition when there is an allegation that there is no industrial dispute and none apprehended which could be the subject-matter of reference for adjudication to the Industrial Tribunal under Section 10 of the Act. Here it is a question of jurisdiction of the Industrial Tribunal, which could be examined by the High Court in its writ jurisdiction. It is the existence of the Industrial Tribunal (sic dispute) which would clothe the appropriate Government with power to make the reference and the Industrial Tribunal to adjudicate it. If there is no industrial dispute in existence or apprehended the appropriate Government lacks power to make any reference. A settlement of dispute between the parties themselves is to be preferred, where it could be arrived at, to industrial adjudication, as the settlement is likely to lead to more lasting peace than an award. Settlement is arrived at by the free will of the parties and is a pointer to there being goodwill between them. When there is a dispute that the settlement is not bona fide in nature or that it has been arrived at on account of fraud, misrepresentation or concealment of facts or even corruption and other inducements it could be the subject-matter of yet another industrial dispute which an appropriate Government may refer for adjudication after examining the allegations as there is an underlying assumption that the settlement reached with the help of the Conciliation Officer must be fair and reasonable. A settlement which is sought to be impugned has to be scanned and scrutinised. Sub-sections (1) and (3) of Section 18 divide settlements into two categories, namely, (1) those arrived at outside the conciliation proceedings, and (2) those arrived at in the course of conciliation proceedings. A settlement which belongs to the first category has a limited application in that it merely binds the parties to the agreement but the settlement belonging to the second category has an extended application since it is binding on all the parties to the industrial disputes, to all others who were summoned to appear in the conciliation*

> *proceedings and to all persons employed in the establishment or part of the establishment, as the case may be, to which the dispute related on the date of the dispute and to all others who joined the establishment thereafter. A settlement arrived at in the course of conciliation proceedings with a recognised majority union will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. The recognised union having the majority of members is expected to protect the legitimate interest of the labour and enter into a settlement in the best interest of the labour. This is with the object to uphold the sanctity of settlement reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. When a settlement is arrived at during the conciliation proceedings it is binding on the members of the Workers' Union as laid down by Section 18(3)(d) of the Act. It would ipso facto bind all the existing workmen who are all parties to the industrial dispute and who may not be members of unions that are signatories to such settlement under Section 12(3) of the Act. The Act is based on the principle of collective bargaining for resolving industrial disputes and for maintaining industrial peace. "This principle of industrial democracy is the bedrock of the Act," as pointed out in the case of P. Virudhachalam v. Lotus Mills [(1998) 1 SCC 650 : 1998 SCC (L&S) 342] . In all these negotiations based on collective bargaining the individual workman necessarily recedes to the background. Settlements will encompass all the disputes existing at the time of the settlement except those specifically left out."*

**12.** ***Learned counsel appearing on behalf of the respondent*** has submitted that so far as the I.D. Case No. 01 of 2023 challenging the order of transfer is concerned, the parties have proceeded, written statement has been filed and the same may be left to be decided in accordance with law. If the petitioner has any grievance with respect to the institution of the said case that also may be kept open to be decided by the learned labour court, Dhanbad. He has submitted that such adjudication may require evidence.

**13.** So far as the challenge to the amendment is concerned, learned counsel has referred to the counter affidavit and has submitted that two letters were issued to the concerned union way back on

24.08.2020 and 17.11.2023, wherein it has been stated that the conciliation could not succeed and the matter could be raised before the competent court and therefore, the amendment was filed before the learned labour court.

**14.** However, it is not in dispute that the pending proceeding before the learned labour court was filed by the concerned workman on his individual capacity and the said proceeding was not initiated at the instance of the union.

**15.** Section 2A of the Industrial Disputes Act, 1947 reads as under:

> *"2-A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute. -*
>
> *(1) Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*
>
> *(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.*
>
> *(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)."*

**16.** ***The records reveal that the writ petition has been filed*** against the order dated 20.08.2024 passed by learned Presiding Officer, Labour Court, Dhanbad in I.D. Case No. 01 of 2023 whereby an application seeking amendment filed by the respondent workman has been allowed. The grievance of the petitioner is that through this amendment the pending proceeding relating to grievance against transfer of the concerned workman has now been converted as challenge to his order of dismissal from service. Another prayer of the petitioner in the writ petition is that the entire proceeding in I.D. Case No. 01 of 2023 be set-aside on the ground that the said proceeding from its inception is wholly without jurisdiction. Thus, the petitioner has contended that not only I.D. Case No. 01 of 2023 is wholly without jurisdiction, but also further amendment to the proceeding is also without jurisdiction.

**17.** It is not in dispute that the respondent-workman had approached the learned Labour Court, Dhanbad. Pursuant thereto, an industrial dispute being I.D. Case No. 01 of 2023 was registered and in the said application, the challenge is with regard to the transfer of the concerned workman.

**18.** The petitioner appeared before the learned Labour Court and filed written statement in I.D. Case No. 01 of 2023. The petitioner raised preliminary objection regarding maintainability of the case before the learned labour court and also questioned the jurisdiction of the learned labour court to try the dispute. The point of maintainability /jurisdiction is yet to be decided by the court concerned. In such circumstances, this Court is not inclined to interfere with the proceedings in I.D. Case No. 01 of 2023 relating to the relief regarding order of transfer which was initially impugned in the said proceedings. It is for the concerned court to decide the same in accordance with law.

**19.** However, during the pendency of the proceeding being I.D. Case No. 01 of 2023, the concerned workman filed a petition seeking

amendment of the prayer in the main application so as to challenge his order of dismissal dated 26.04.2021.

**20.** As per the counter-affidavit, on 17.11.2023 conciliation commenced in relation to dismissal after the institution of I.D. Case No. 01 of 2023. However, the Labour Superintendent gave liberty to the Union to file case under section 2A of the Industrial Disputes Act. The grievance of the petitioner is that instead of following due procedure prescribed under section 2A of Industrial Disputes Act or raising an industrial dispute by the union in connection with dismissal of the respondent-workman in accordance with the provisions of Industrial Disputes Act, the matter could not have been agitated by the respondent-workman in a pending industrial dispute which was I.D. Case No. 01 of 2023 by way of filing an amendment application.

**21.** The dismissal order was passed on 26.04.2021 and therefore, the letter of the Conciliation Officer dated 24.08.2020 cannot be said to be related to the order of dismissal. Further, the letter dated 17.11.2023 for approaching Labour Court to the Trade Union is also of no help to the petitioner. Challenging the order of dismissal by the workman in individual capacity under section 2A is totally different from raising an industrial dispute by the union under section 10 of the Industrial Disputes Act, 1947. The concerned workman cannot take the shelter of the letter dated 17.11.2023 addressed to the trade union.

**22.** So far as the amendment is concerned, it is not in dispute that during the pendency of I.D. Case No. 01 of 2023, the concerned workman challenged the dismissal letter dated 26.04.2021, which was issued prior to filing of I.D. Case No. 01 of 2023, by asserting that he came to know about the same only through the written statement filed by the management. However, the fact remains that in order to challenge the order of dismissal, there are two alternative procedures which are provided under the Industrial Disputes Act. One is under Section 2A where the workman can raise a dispute directly before the court after complying with the provision/procedure mentioned therein which also has a timeline for invoking Section 2A of the Industrial

Disputes Act, 1947. The second course which is available is raising dispute through the union under Section 10. It appears that union had raised certain disputes and letters were issued to the Union, as is apparent from the counter-affidavit filed by the concerned workman, but the union has not raised the industrial dispute so far. Instead, the concerned workman directly approached the labour court in the pending I.D case No. 01 of 2023 and sought to challenge the order of dismissal by way of amendment. However, the amendment has been allowed by the labour court without appreciating that if the amendment is allowed, the same would not only change the nature of the pending case which is relating to challenge to the order of transfer, but would also amount to giving a complete go-by to the procedure prescribed for challenging the order of dismissal before the learned labour court by the workman. The procedure prescribed under section 2A (2) of the Industrial Disputes Act, 1947 is not a mere formality but is the mandate of law and is also coupled with a limitation period.

This Court is of the considered view that the learned labour court has committed jurisdictional error in allowing the amendment, which has resulted in complete go-by to the procedure prescribed under the Industrial Disputes Act, 1947 for challenging the order of dismissal by the concerned workman in his individual capacity.

**23.** ***Accordingly, the impugned order dated 20.08.2024 allowing the amendment in I.D. Case No. 01 of 2023 is hereby set aside.***

**24.** It is further observed that, so far as order of dismissal is concerned, it will certainly be open to the concerned workman or the union to raise the dispute in accordance with law.

**25.** So far as the challenge to the entire proceeding before the learned labour court in I.D. Case No. 01 of 2023 is concerned, as held above, this Court is not inclined to interfere with the same and all points including maintainability as raised by the petitioner before the learned court are left open to be decided by the concerned court in accordance with law. However, since I.D. Case No. 01 of 2023 is

pending since 2023, the learned labour court is directed to expeditiously decide the same.

**26.** This writ petition is **partly allowed**.

**27.** Pending interlocutory application, if any, is closed.

**28.** Let a copy of this order be communicated to the concerned court through “Fax/e-mail”.

**(Anubha Rawat Choudhary, J.)**

*27.08.2026*
*Rakesh/-*
*Uploaded on:-08th September, 2026*