

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

WRIT PETITION NO.4705 OF 2016

Pharmax (India) Pvt. Ltd. and others

..Petitioners

Versus

Akhil Bharatiya General Kamgar Union

..Respondent

Mr. Pramod Anaokar for the Petitioners.

Ms. Rita Joshi i/by Mr. A. D. Shetty for the Respondent.

CORAM : R. M. SAVANT, J.

DATE : 30th AUGUST, 2016

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 16.11.2013 passed by the Learned I/c Member of the Industrial Court, Mumbai, by which order, the Revision Application filed by the Petitioners came to be partly allowed. Resultantly, the judgment and order dated 28.09.2010 passed by the Learned Judge of the Labour Court came to be modified in respect of clause (3) of the operative part in as much as instead of Rs.2,00,000/- as compensation awarded to each of the Respondents in lieu of reinstatement and backwages the amount was reduced to Rs.1,50,000/-.

2 The cause for filing the complaint in question was

termination of the services of the workmen represented by the Respondent who were four in number and who were working as operators at the relevant time with the Petitioners who are in the pharmaceutical industry. The Learned Judge of the Labour Court has found the said termination of the workmen as illegal on the ground that the same has not been preceded with any procedure being followed by the Petitioners. In so far as the compliance of Section 25F of the Industrial Disputes Act, 1947 is concerned, the Learned Judge of the Labour Court recorded a finding that there is non-compliance of the said provisions in as much as the amount sought to be tendered to the said four workmen was on the next day i.e. on 01.12.2005. The Learned Judge of the Labour Court also did not countenance the case of the Petitioners that the said four workmen had made allegations of sexual harassment at the hands of the son of the director Suyesh Bansal and also intimidated the other employees. The Learned Judge of the Labour Court observed that in fact a grievance was made by the said four workmen that they are not being paid their dues which includes the arrears etc. The Learned Judge of the Labour Court therefore deemed it appropriate to mould the final relief by granting Rs.2,00,000/- as compensation in lieu of reinstatement and backwages.

3 The judgment and order dated 28.09.2010 of the Learned

Judge of the Labour Court was challenged by the Petitioners by way of Revision Application (ULP) No.216 of 2010. The Learned Member of the Industrial Court in the facts and circumstances of the present case did not deem it appropriate to interfere with the findings recorded by the Labour Court on aspect of termination of services of the said four workmen as also as regards the compliance of the provisions of Section 25F of the Industrial Disputes Act, 1947. However the Learned Member of the Industrial Court deemed it appropriate to modify the amount granted by way of compensation to the said four workmen from Rs.2,00,000/- each to Rs.1,50,000/- thereby partly allowed the said Revision Application (ULP) No.216 of 2010.

4 The Learned Counsel appearing on behalf of the Petitioners Mr. Pramod Anaokar would seek to reiterate the case of the Petitioners before the Courts below and would contend that having regard to the fact that allegations of sexual harassment and molestation were made as also the other employees were intimidated that the termination of the services of the said four workmen were effected. It was the submission of Mr. Pramod Anaokar that the said four workmen have been paid whatever was due to them as also the retrenchment compensation payable in terms of Section 25F of the Industrial Disputes Act, 1947.

5 Per contra, the Learned Counsel appearing for the Respondent Ms. Rita Joshi would seek to question the manner in which the services of the said four workmen were terminated and would support the orders passed by the Courts below. It was also the submission of Ms. Rita Joshi that the provisions of Section 25F of the Industrial Disputes Act, 1947 has not been complied with in as much as no seniority list was put up and neither the appropriate government was informed as mandated by the provisions of the Industrial Disputes Act, 1947.

6 Having heard the Learned Counsel for the parties. In my view, there is no merit in the above Petition. The Courts below on the basis of the material on record have recorded a finding as regards the termination of the services of the said four workmen. The Courts below have also recorded a finding of fact as regards whether there is compliance of Section 25F of the Industrial Disputes Act, 1947. If the workmen are sought to be retrenched, then the logical corollary would be compliance of Section 25F of the Industrial Disputes Act, 1947 in the matter of putting up the seniority and informing the appropriate government that does not seem have been done in the instant case. It is also required to be noted that though it was the case of the Respondent that the services of the four workmen were required to be terminated on account of sexual harassment and molestation as also intimidation to the

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other employees, there is absolutely no evidence adduced in that regard by the Petitioners. Having regard to the fact that the said four workmen are directed to be paid compensation in lieu of reinstatement and backwages, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]