

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10639 of 2017(O&M)

Date of Decision: 17.05.2017

M/s Troks Pharma Pharmaceuticals Pvt. Ltd.

... Petitioner

Versus

Presiding Officer, Labour Court, Rohtak & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Suresh Kalia, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

The Proviso to Section 25-FFF of the Industrial Disputes Act, 1947 (for short 'the Act') can only be triggered by evidence adduced by party claiming under it in order to bring the case in the Proviso and out of the exceptions mentioned in the provision of law. The closure of undertaking to be maintained in favour of the management by restricting closure compensation to three months to hold ground has to be on account of unavoidable circumstances beyond the control of the employer. The Explanation to Section 25-FFF excludes closing down by reason merely of the four circumstances enumerated thereunder. These four conditions do not qualify as unavoidable circumstances beyond the control of the employer while only first two of which could have been pressed i.e. (i) financial difficulties (including financial losses) or (ii) accumulation of undisposed of stocks which is not the case proved before the labour court. The last two situations have no application to this case. Admittedly, no evidence was brought on record by the management in terms of Section 25-FFF of the Act to consider its plea and therefore, the Labour Court was correct in reasoning that the case fell in Section 25-F of the Act by holding the termination illegal

on the evidence available. Reinstatement has been denied by virtue of packing up of the establishment and instead compensation in lieu of reinstatement has been awarded in terms of Section 25-FFF of the Act which when the case admits no exception and is de hors the Explanations takes us to retrenchment compensation and notice pay in terms of Section 25F as conditions precedent to termination to which the labour court has had resort to, and correctly so in deciding the reference in favour of the workman.

The length of service admitted by the petitioner management is from 1.5.1986 to 30.4.2007, which is about 21 years. The worker was paid wages @ ₹ 4250/- per month at the time of retrenchment and accordingly the amount equal to half of ₹ 4250/- multiplied by 21 years requires to be paid under the award. The contention of the petitioner that compensation should be limited to three months monetary benefit in terms of Section 25-FFF of the Act, is not a sound argument and deserves only to be noticed and rejected for want of legal evidence to support the plea. Learned counsel is unable to show any other evidence from where the argument could be sustained.

Accordingly, I find no legal infirmity in the award passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak, and would dismiss the petition. The amount be computed and paid to the workman within 2 months from the date of receipt of a certified copy of this order.

17.05.2017
monika

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No