

Government of West Bengal  
Labour Department, I. R. Branch  
N. S. Building, 12<sup>th</sup> Floor, 1, K. S. Roy Road, Kolkata – 700001

No. Labr/ 129 / (LC-IR)/ 22015(16)/13/2023

Date : 27/01/2025

ORDER

WHEREAS an industrial dispute existed between M/s. Alkem Laboratories Ltd., having its Registered Office at Alkem House, Sonapati Bapat Marg, Lower Paral(West), Mumbai – 400013 and its Regional Office at 30D, Haramohan Ghosh Lane, Near Phoolbagan Post Office, Ward No. 35, Kolkata - 700085 and their workman Alamgir Ali Mallick , permanently residing at Village – Mohespur, P.O. – Routhkhanda, P.S. – Joypur, Dist. – Bankura, Pin – 722138 and presently residing at R. K. Mission Road, Kethardanga, Bankura, Pin – 722101, regarding the issues, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947);

AND WHEREAS the 9<sup>th</sup> Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 17.12.2024 in Case No. – 40/2023 on the said Industrial Dispute Vide Memo No. 169 / I.T. dated 18.12.2024 in compliance of u/s 10(2A) of the I.D. Act, 1947.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Governor is pleased hereby to publish the said Award as shown in the Annexure hereto.

ANNEXURE

( Attached herewith )

By order of the Governor,

sd/-  
Assistant Secretary

to the Government of West Bengal

No. Labr/ 129 /1(5)/(LC-IR)/ 22015(16)/13/2023

Date : 27/01/2025

Copy with a copy of the Award forwarded for information and necessary action to :-

1. M/s. Alkem Laboratories Ltd., having its Registered Office at Alkem House, Sonapati Bapat Marg, Lower Paral(West), Mumbai – 400013 and its Regional Office at 30D, Haramohan Ghosh Lane, Near Phoolbagan Post Office, Ward No. 35, Kolkata - 700085.
2. Alamgir Ali Mallick , permanently residing at Village – Mohespur, P.O. – Routhkhanda, P.S. – Joypur, Dist. – Bankura, Pin – 722138 and presently residing at R. K. Mission Road, Kethardanga, Bankura, Pin – 722101.
3. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11<sup>th</sup> Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
- ✓ 5. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department's website.

sd/-  
Assistant Secretary

No. Labr/ /2(3)/(LC-IR)/ 22015(16)/13/2023

Date :

Copy forwarded for information to :-

1. The Judge, 9<sup>th</sup> Industrial Tribunal, N. S. Building, 1, K.S. Roy Road, Kolkata - 700001 with respect to his Memo No. 169 / I.T. dated 18.12.2024.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata - 700001.
3. Office Copy.

sd/-  
Assistant Secretary

Dipankar  
Arrange to upload.  
28/01/25





IN THE MATTER OF INDUSTRIAL DISPUTES BETWEEN M/S  
ALKEM LABORATORIES LTD. HAVING ITS REGISTERED OFFICE  
AT ALKEM HOUSE, SONAPATI BAPAT MARG, LOWER PARAL  
(WEST), MUMBAI-400013 AND REGIONAL OFFICE AT 30D,  
HARAMOHAN GHOSH LANE, NEAR PHOOLBAGAN POST  
LOFFICE, WARD NO.35, KOLKATA-700 085

VS.

ALAMGIR ALI MALLICK, PERMANENTLY RESIDING AT VILLAGE-  
MOHESPUR, P.O- ROUTHKHANDA, P.S- JOYPUR, DIST-  
BANKURA, PIN-722 138 AND PRESENTLY RESIDING AT  
R.K.MISSION ROAD, KETHARDANGA, BANKURA, PIN-722 101.

Case No. 40/2023 U/s 10(1B)(d) of the Industrial Disputes Act,  
1947.

BEFORE THE JUDGE, NINTH INDUSTRIAL TRIBUNAL  
DURGAPUR.

PRESENT:- SRI NANDADULAL KALAPAHAR, JUDGE,  
9<sup>TH</sup> INDUSTRIAL TRIBUNAL, DURGAPUR.

Ld. Lawyer for the petitioner/workman :- Mr.S.K.Panda &  
Smt.Anima Maji.

Ld. Lawyer for the O.P/Employer :- Ex-parte.

The Award dated the 17<sup>th</sup> December, 2024

This is an application filed by the petitioner workman U/s 10(1B)(d) of  
the Industrial Disputes Act, 1947 and the Rules framed thereunder as  
amended up-to -date.

The petitioner/workman Alamgir Ali Mallick files an application  
before this Tribunal U/s 10(1B)(d) of the Industrial Disputes Act, 1947 with  
a prayer for his reinstatement in his services of M/s. Alkem Laboratories  
Ltd. in the same status together with his continuing of service after getting





aside the order of illegal retrenchment dated 10.01.2023 and awarding of payment of full back wages as well as of consequential service benefits and retrenchment compensation as payable to him from the date of illegal retrenchment to the date of reinstatement alongwith interest as admissible under rules on the basis of the fact that he joined in the service of O.P/Company with effect from 01.7.2015 at Bankura Head Qtr. with the designation of Marketing Executive, as a Sales Promotion employee. His service was confirmed with effect from the date of his joining with the O.P/Company with an unblemished track record of Sales Promotion Job and he worked with utmost sincerity and diligence as a prolix performance to the satisfaction of the company.

He having been joined in Bankura Head Qtr. started working his sales promotion job and in other ex-stations and outstation territories. The primary and essential job of this workman/applicant was to promote the company's different Pharmaceutical products by promotional detailing to the doctors as per the promotional guidelines of the company and ensuring availability of the stocks of the products promoted in the chemist shops by stockist, so as to honouring the prescriptions of the doctors. He used to do this sales promotion job with a great deal of sincerity and diligence to the satisfaction of the company.

That his working for the company at Bankura Head Qtr. had been continuing until 09.01.2021 when he received a letter titled as Charge sheet -cum- Show-cause Notice wherein it was alleged by the company that on 06.11.2020 he reported Dr. A.S. Duta(296627347) but they have irrefutable proof that he has not reported to the Doctor on the said date and then he was asked to show-cause as to why a strict action should not be taken within 72 hours from the receipt of the charge sheet-cum-show-cause letter dated 09.01.2021.

That the applicant/workman in reply to the said charge sheet-cum-show-cause letter denied the entire material allegation brought against him



of false reporting having placed and its proper explanation which was sent through e-mail dated 15.01.2021. Afterwards, the company as usual sent a letter dated 18.02.2021 in regard to a notice of enquiry informing therein an enquiry would be conducted by an Enquiry Officer named Sri Ashis Jagwarkar on 09.03.2021 (Friday) and 06.03.2021 (Saturday) at Mumbai office address as was mentioned therein.



Thereafter, the workman/applicant by his e-mail dated 03.03.2021 informed the company/management that due to unavailability of reservation to Mumbai bound train the enquiry for 9th and 6<sup>th</sup> March might accordingly be adjourned. It was further told in the said e-mail by the applicant/workman that owing to CIVID situation prevailing in Mumbai the enquiry might be arranged either in Bankura or to Kolkata. However, the company as usual did not pay any heed to the appeal made by the applicant/workman by e-mail dated 03.03.2021 and choose to continue with the enquiry proceeding on the subsequent dates as fixed by the Enquiry Officer.

Thereafter, at last on 27.04.2023, the Enquiry Officer published his report and findings in respect of enquiry conducted against the applicant/workman on the Charge sheet dated 09.01.2021 on the ground of false reporting. Thereafter, the company sent a letter to the applicant/workman enclosing a report and findings dated 27.04.2021 requesting him to make a representation on the said report and findings of the Enquiry Officer dated 07.04.2021 within 7 days from the date of receipt of that letter.

That on 16.06.2021, the applicant/workman by e-mail sent a representation to the company where the applicant/workman ventilated entire version indicating his complete innocence in regard to the allegation of false reporting one sided i.e the company sided/showed inclination of the Enquiry Officer in the company to such confusion findings.





Thereafter, the applicant/workman was terminated from his service of the company with effect from 01.07.2021. The applicant/workman sincerely and fervently requested the management to reinstate him in the service of the company with pending dues withdrawing the order of dismissal, but to no avail.

Thereafter, the applicant/workman filed a complaint application dated 18.05.2022 to the Labour Commissioner, for raising an Industrial Dispute on account of his illegal termination of service from the O.P/Company. The ALC, Bankura sent a notice to the O.P/Company on 26.05.2022 asking him to submit the written comments in response to the complaint petition by the applicant/workman. The Company sent a written consent dated 31.05.2022 to the ALC without attending the session of conciliation. The applicant/workman by a letter dated 06.06.2023 replied the letter dated 31.05.2022 by the O.P/Company.

The applicant/workman by the notice of ALC was requested to submit the relevant documents justifying contention of the complaint petition, by notice dated 14.06.2022. At the same time, the O.P/company was also asked to submit documents before the ALC.

That as there appeared to be no settlement of conciliation between the parties due to obstinate stance of the O.P/Company, the applicant/workman was granted with the pending certificate under Form-S by ALC, Bankura on 02.03.2023.

That the applicant/workman since his illegal retrenchment dated 10.01.2023, he has not been engaged as yet, in any gainful employment.

Termination of service of the applicant/workman is absolutely an illegal retrenchment. This applicant/workman following his illegal retrenchment on 01.06.2022 a representation dated 02.06.2022 was also made by him requesting the company to allow him to continue his sales promotion work for the company as he had been doing so far.





This proceeding before the Industrial Tribunal was continued in ex-parte against M/S Alkem Laboratories Ltd. as he or any of his representatives did not appear before this tribunal in spite of receiving summons or notice served upon him.

In proving this case the petitioner has filed his examination-in-chief in affidavit form and the same was tendered before this court, the petitioner/workman was further examined -in- chief as P.W-1 in full and discharged.

The petitioner/workman files some documents such as :

- 1) Appointment letter dated 08.07.2015 ---Exbt.1,
- 2) Charge sheet-cum-Show-cause notice dated 09.01.2021---Exbt.2.
- 3) Downloaded copy of the Charge sheet-cum-Show-cause notice ---Exbt.3,
- 4) Notice of enquiry dated 18.02.2021—Exbt.4.
- 5) Copy of reply dated 03.03.2021—Exbt.5,
- 6) Copy of letter dated 22.03.2021—Exbt.6,
- 7) Copy of Dismissal letter dated 01.07.2021—Exbt.7,
- 8) Copy of reply dated 02.07.2021—Exbt.8.
- 9) Copy of the received copy of representation dated 06.06.2022—Exbt.9.

On going through the oral evidence of witness P.W-1 Alkem Laboratories Ltd., I find that the testimony of witness is unchallenged, undefended testimony and there is no reason to disbelieve the oral testimony of witness P.W-1, rather the testimony of witness P.W-1 is found to be believable and acceptable for taking into consideration in proving the case of the petitioner/workman. On being perused the documents exbt.-1, I find that this petitioner/workman was issued an Appointment letter by the O.P. Alkem Laboratories Ltd. on 08.07.2015 on the basis of the said Appointment letter dated 08.07.2015, the petitioner workman started doing his Sales Promoting job as Markering Executive in Alkem Laboratories Ltd.





under Alkem Pharma Divn. based at Bankura H.Q in Grade "M E" on the terms and conditions contained in the Appointment letter. The petitioner/workman joined his service in the O.P/Company on 08.07.2015.

It is evident from the document Exbt.-1, Appointment letter of the petitioner/workman in para 12 of the Appointment letter wherein it has been mentioned "in the event of any dispute regarding the terms and conditions of your Appointment, you will be subject to jurisdiction of the relevant courts of law at the H.Q of the Company viz. Mumbai". It is apparent from the Appointment letter that this petitioner/workman has not put his signature below the line, "I accept the terms and conditions of this letter and the said service rules". There is no such mention in the Appointment letter that the jurisdiction of Industrial Tribunal has been taken away by the O.P Employer i.e Alkem Laboratories Ltd. by virtue of issuance of Appointment letter in favour of the petitioner/workman, Alamgir Ali Mallick and by acceptance of the said Appointment letter by the petitioner/workman. "The jurisdiction of relevant court of law" means the courts of original jurisdiction such as Court of Munsiff, Court of the District Judge, the Hon'ble High Court and the Hon'ble Supreme Court of India. Appointment letter of the petitioner/workman does not disclose and/or contain any conditions that the jurisdiction of Industrial Tribunal at Durgapur in the state of W.B has been taken away to Mumbai by the O.P/Employer/Company.

Therefore, I am of the considered view that this tribunal has the ample jurisdiction to entertain the petition U/S 10(1B)(d) of the Industrial Disputes Act, 1947 as has been filed by the petitioner/workman.

Apart from this, petitioner/workman used to do his work as Marketing Executive for sales promotion of the products at Bankura H.Q under Alkem Pharma Divn. and this petitioner/workman has rightly ventilated his grievance vide document Exbt.-9 before the Asstt. Labour Commissioner, Govt. of West Bengal, Dist.-Bankura and when the O.P/Employer did not





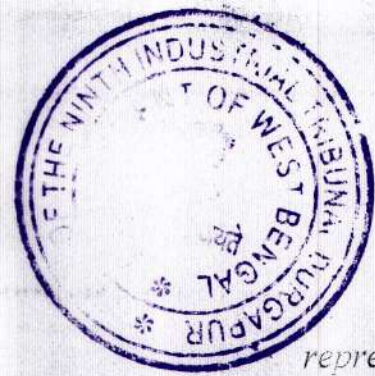
appear before the Asstt. Labour Commissioner for conciliation of the dispute, the said dispute was not settled before the Asstt. Labour Commissioner, Govt. of West Bengal, Dist.-Bankura. As a result of which the petitioner/workman after obtaining the certificate from the Labour Commissioner has filed this application U/S 10(1B)(d) of the Industrial Disputes Act, 1947 before this Industrial Tribunal. Consequently, this Industrial Tribunal has the ample jurisdiction to entertain this case filed by the petitioner/workman, Alamgir Ali Mallick.

The allegation against this petitioner/workman Alamgir Ali Mallick that during the performance of his duty he has submitted a false report that he has reported Dr. A. S. Dutta on 06.11.2020 but actually as per allegation of the O.P./Employer that he has submitted a false report of attending Dr. A. S. Dutta on 06.11.2020.

Therefore, this O.P./Employer issued a charge sheet-cum-show-cause notice vide document Exbt.2 directing him to show cause as to why the strict action should not be taken in the present case including termination of service. The petitioner/workman was further directed that his reply should reach the Sr. General Manager-HR of the O.P./Employer within 72 hours from the receipt of this letter failing which the management would presume that you have no say in the matter and that the management would be justified in proceeding in a manner as they deem fit in the interest of the business and the organisation.

Thereafter, petitioner/workman gave reply to the Sr. General Manager-HR vide his e-mail dated 15.01.2021 wherein he has denied the allegations of false reporting on his part to Dr. A.S. Dutta on 06.11.2020 resulting no such grave and serious nature of incident being occurred. Thereafter, a notice of enquiry vide document Exbt.-4 was sent to the petitioner/workman Alamgir Ali Mallick through e-mail dated 18.02.2021 by the Sr. General Manager-HR of O.P./Employer requesting the petitioner/workman to appoint a co-employee as your defence






representative in order to give a fair opportunity to defend himself and to file documents and examine witness, if any. This notice also discloses that principles of natural justice would be complied in the said letter conducting enquiry and it would be in your interest to remain present or else, the enquiry will have to be proceeded ex-parte and further action as deem fit would be taken against him. Thereafter, the petitioner/workman sent a mail dated 03.03.2021 to the Sr. General Manager-HR M/S Alkem Laboratories Ltd. for making an arrangement of enquiry either at H.Q or else and to adjourn the enquiry till normalcy of KOVID situation as KOVID situation was prevailing in Mumbai in the State of Maharashtra at that time.

Thereafter, one e-mail dated 22.03.2021 was sent to the Enquiry Officer vide document Exbt.6. in reference to the enquiry scheduled to be held on 30.03.2021 at 11.00 a.m. requesting for adjournment of enquiry on account of Assembly Election of West Bengal being commenced on and from 27.03.2021 as well as prevailing KOVID situation. The election of the Bankura Constituency was scheduled on 01.04.2021. Thereafter, the Enquiry Officer, Associate Vice President-HR for Alkem Laboratories Ltd. sent an order of dismissal of service of the petitioner/workman with effect from 01.07.2021 vide his e-mail dated 01.07.2021.

On going through the Exbt-7. dismissal order of the petitioner/workman as well as the findings of the Enquiry Officer contained in the e-mail of said dismissal order dated 01.07.2021, I find that the Enquiry Officer has stated in his enquiry report and dismissal order that pursuant to the said charge sheet for misconduct dated 09.01.2021 a full and fair enquiry, initially physical and thereafter virtual as per request was conducted in the manner from 05.03.2021 onwards on different dates. The Enquiry Officer, on conclusion of the said enquiry has submitted his report and findings dated 27.04.2021 wherein he found the petitioner/workman guilty of the charges levelled against petitioner/workman. The Enquiry





Officer has not disclosed in his enquiry report after arriving at the conclusion of the enquiry as to how he declared the petitioner/workman as guilty of misconduct. Primarily, it is the O.P/Employer who has to prove his case by adducing oral evidence and examination of witnesses and other relevant documents and records that the petitioner/workman was found and held guilty after conducting the fair enquiry. But I do not find from any enquiry report of Enquiry Officer that how he arrived at the findings after the conclusion of his enquiry that the petitioner/workman is guilty of misconduct for false reporting to the Doctor. The report of the Enquiry Officer should not be ambiguous and the Enquiry Officer ought to have considered the application for adjournment of the enquiry of the two e-mails which were sent by the petitioner/workman to him for adjournment of the enquiry on account of KOVID situation being prevailed in Mumbai in the state of Maharashtra as well as on the ground of West Bengal Assembly Election of Bankura District scheduled on 01.04.2021. The Enquiry Officer was biased and he has not considered the e-mail of the petitioner/workman for the reasons best known to him. That the O.P/Company ought to have appeared before this Tribunal, what prevented him from appearing before this Tribunal having jurisdiction to entertain the case.

The Enquiry Officer ought to have reflected in his enquiry report which witnesses have been examined from the part of the O.P/Employer, Alkem Laboratories Ltd. to substantiate the case of alleged false reporting made by the petitioner/workman. During the conducting of fair enquiry it is incumbent upon O.P/Employer to prove his case first that the petitioner/workman had committed false reporting to the Doctor. As these things are not reflected in the enquiry report by the Enquiry Officer as such I am of the considered view that this enquiry was absolutely biased and the proceeding conducted by the Enquiry Officer has violated the principles of natural justice without considering the two e-mails sent by the petitioner/workman to the Enquiry Officer. Proceeding of enquiry was





*made hurriedly by hook and crook to finish the same and terminate the petitioner/workman from the O.P/Company.*

*The dismissal of service and the retrenchment of the service of the petitioner/workman is found wholly illegal and bad in the eye of law and the said enquiry report as well as the Dismissal order of service of the petitioner/workman on and from 01.07.2021 on the basis of the enquiry report with effect from 01.07.2021 communicated by the Associate Vice-President-HR for Alkem Laboratories Ltd. is absolutely illegal which has no leg to stand upon. Consequently, the Dismissal order communicated by the Vice-President-HR for Alkem Laboratories Ltd. is liable to be set aside as it is ex facie, illegal and bad in the eye of law.*

*That the line mentioned in the dismissal order that –*

*“You have contradicted yourself and also clear cut admitted that you did not meet the Doctor and had left promotional inputs in a nearby medical stores”*

*‘Contradiction’ is not an ‘admission’ of the fact. O.P/Company has to prove his case by adducing positive evidence including documentary evidence.*

*The aforesaid line mentioned in dismissal order of the disciplinary authority disclosed the biasness on their part which has caused a severe blow on the service of petitioner.*

*Generally, Appointing authority has the power to dismiss the job or terminate service of petitioner. It is found from the case record that one Sr.Manager – H.R had issued the Appointment letter of petitioner/workman and the dismissal order has been passed by one Associate Vice-President, H.R for Alkem Laboratories Ltd. It is not known as to whether this Associate Vice-President-H.R has got any authority to pass the dismissal order or not.*



Considering the above, I am of the view that the so-called enquiry proceeding conducted by Enquiry Officer and the proceeding of dismissal of service of petitioner/workman by Associate Vice-President, H.R for O.P/Company is wholly illegal, baseless and not in conformity with the principles of Natural Justice and fair play.

Therefore, the dismissal order is illegal and the termination of service of petitioner/workman by the authority of Company i.e Associate Vice-President, H.R is also grossly illegal and bad in the eye of law.

Therefore, the dismissal order with effect from 01.07.2021 passed by Associate Vice-President, H.R for Alkem Laboratories Ltd. is set aside.

Hence, it is

*Ordered*

that the petition filed by the petitioner/workman Alamgir Ali Mallick U/S 10(1B)(d) of Industrial Disputes Act, 1947 for passing an award of reinstatement of service of O.P/Company i.e M/S Alkem Laboratories Ltd. in the same status with continuity of service after setting aside or quashing order of illegal dismissal of service of petitioner/workman with effect from 01.07.2021 and an award of payment of full back wages as well as consequential service benefit and retrenchment compensation be and the same is considered and allowed in part and ex-parte against O.P/Company and without any cost and/or costs.

Accordingly, an award is passed in favour of petitioner/workman for his reinstatement in service of O.P/Company i.e M/S Alkem Laboratories Ltd. with full back wages with effect from 01.07.2021 after setting aside the dismissal order dated 01.07.2021 passed by the Associate Vice-President, H.R for Alkem Laboratories Ltd. O.P/Company is also directed to reinstate the petitioner/workman in his job in the Company within 2(two) months from the date of communication of the order.







An award is also passed against the O.P/Company to give all other consequential service benefits of petitioner forthwith to petitioner as admissible in law.

O.P/Company i.e M/S Alkem Laboratories Ltd. is directed to comply the order within 2(two) months from the date of communication of the order.

Thus, this Case No.40 of 2023 U/S 10(1B)(d) of Industrial Disputes Act, 1947 hereby stands disposed of.

This is my award.

Let a copy of this award send to the Secretary for his information and taking necessary action from his end.

D C by me

*Self Nandadulal Kalapahar*  
Judge

**JUDGE**  
**NINTH INDUSTRIAL TRIBUNAL**  
**DURGAPUR**

*Self Nandadulal Kalapahar*

Judge, 9<sup>th</sup> Industrial Tribunal.

Durgapur.

**JUDGE**  
**NINTH INDUSTRIAL TRIBUNAL**  
**DURGAPUR**