

Panaji, 5th April, 2018 (Chaitra 15, 1940)

SERIES II No. 1

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There are three Extraordinary issues to the Official Gazette, Series II No. 52 dated 29-03-2018 as follows:—

- (1) Extraordinary dated 29-03-2018 from pages 2329 to 2330 regarding Order & Notifications from Department of Finance.
- (2) Extraordinary (No. 2) dated 02-04-2018 from pages 2331 to 2332 regarding Form I from Department of Panchayati Raj and Community Development.
- (3) Extraordinary (No. 3) dated 04-04-2018 from pages 2333 to 2336 regarding Order and Notifications from Department of Elections and Notifications from Department of Finance.

GOVERNMENT OF GOA

Department of Agriculture
Directorate of Agriculture

Corrigendum

No. 1/22/155/2017-18/D.Agri/261

Read: Order No. 1/14/95/Agri(Part)/Vol.II/256 dated 20-03-2018.

In the above referred order, "Smt. Janice Flossy Gomes, Farm Superintendent, Government Farm Kalay shall stand relieved from her post w.e.f. 31-03-2018 (a.n.)" instead of w.e.f. 29-03-2018 (a.n.). She shall hand over the charge to the link officer and proceed for joining her new posting w.e.f. 02-04-2018.

Other contents of the above said order remains the same.

Nelson Figueiredo, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 28th March, 2018.

Department of Co-operation

Office of the Registrar of Co-operative Societies

Order

No. 1-3-71/EST/RCS (Part) Vol. II/5081

On recommendations of the Departmental Promotion Committee conveyed by the Goa

Public Service Commission, Panaji vide letter No. COM/II/11/11(1)/2012/1108 dated 08-03-2018, the Government is pleased to promote the following officers to the post of Asstt. Registrar of Co-op. Societies, Group "B" (Gazetted) in the establishment of Registrar of Co-op. Societies in the pay of Rs. 44,900 - Rs. 1,42,400/- (Pay Matrix Level 7) on regular basis with immediate effect. They shall continue to hold the same post which they were holding on ad hoc basis, vide Order No. 1-3-71-EST/RCS/Part Vol-II/2545 dated 24-10-2014 & Order No. 1-3-71-EST/RCS/Part/Vol. III/2177 dated 26-08-2016.

1. Shri H. S. Gawde (ST).
2. Shri P. S. Sawant.
3. Shri M. N. Kalangutkar (PD).
4. Shri Suraj Ghaisas.
5. Shri Pankaj Marathe.
6. Smt. Ulka Bandekar.
7. Shri Santosh P. Naik.

By order and in the name of the Governor of Goa.

Sanjiv M. Gadkar, Registrar & ex officio Addl. Secretary (Co-op. Societies).

Panaji, 28th March, 2018.

Order

No. 22-1-17-MR/MKT/RCS/01

Read: 1) Government Order No. 22-1-2017-MR/MKT/RCS/06 dated 03-04-2017.

2) Government Order No. 22-1-2017-MR/MKT/RCS/343 dated 03-10-2017.

In exercise of the power conferred by Section 16 (1) (b) of the Goa Agricultural Produce Marketing (Development and Regulation) Act, 2007, the Government of Goa hereby further extends the term of Committee of Administrators of the Goa State Agricultural Marketing Board, Margao, Arlem, Raia, Salcete-Goa for the period of three months i.e.

03-07-2018 or till the new Board is constituted whichever is earlier.

The extension to the Committee of Administrators is allowed since the election is to be conducted in accordance with the recent amendment to the Goa Agricultural Produce Marketing (Development and Regulation) Act, 2007.

By order and in the name of the Governor of Goa.

Sanjiv M. Gadkar, Registrar (Co-op. Societies).

Panaji, 2nd April, 2018.



Department of Education, Art & Culture

Directorate of Education

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Order

No. 1-1(42)-2003/SE/193

Whereas, Shri Mahadeo V. Gadgil/M. V. Gadgil, in the cadre of Deputy Education Officer/Principal, Government Higher Secondary Schools/Vocational Education Officer/Dy. Director of S.I.E. under the Directorate of Education and who is presently working as Secretary, Goa Board of Secondary & Higher Secondary Education, Alto-Betim on transfer on deputation has changed his name to "Madhav Vishnu Gadgil" by execution of Deed changing name/surname (under Registration No. 6732/17) on 21-10-2017 before Shri Manohar C. Adpaikar, Notary, Ponda, State of Goa (India) V. No. A-1236/2017 and publication of the said changed name in the Official Gazette, Series III No. 30 dated 26-10-2017 and also in the local newspaper namely 'Gomantak Times' dated 24-10-2017 in accordance with the procedure of change of name by Government employee as laid down in O. M. No. 19016/1/87-Estt(A) dated 12-03-1987 of Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi.

And whereas, the said Shri Mahadeo V. Gadgil/M. V. Gadgil vide letter dated 06-11-2017 has further requested to enter his changed name i.e. "Madhav Vishnu Gadgil", in his service records.

Now therefore, sanction of the Government is hereby conveyed to change the name of "Shri Mahadeo Vishnu Gadgil/M. V. Gadgil" to "Madhav Vishnu Gadgil" in his service records.

This issues with the approval of the Government vide U.O. No. 1427/F dated 08-2-2018.

By order and in the name of the Governor of Goa.

G. P. Bhat, Director & ex officio Joint Secretary (Education).

Porvorim, 26th February, 2018.

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Order

No. 1(2)-18-2017/SE/197

Shri Bhagirath Shetye, Assistant Director of Education, North Educational Zone, Mapusa and who is presently holding the charge of Dy. Director of Education, North Educational Zone, Mapusa in addition to his own duties is hereby posted as Secretary of Goa Board of Secondary and Higher Secondary Education on working arrangement till Mr. M. V. Gadgil resumes his duties at Goa Board.

This issues with the approval of the Government.

By order and in the name of the Governor of Goa.

Gajanan P. Bhat, Director & ex officio Joint Secretary (Education).

Porvorim, 7th March, 2018.

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Order

No. 1(1)-5-2009/SE/Part/202

Government is pleased to re-employ Shri Narayan S. Naik, Principal-Government Higher Secondary School, Khandola, Marcela-Goa (due to retire on superannuation w.e.f. 31-03-2018 (a.n.) beyond superannuation w.e.f. 01-04-2018 to 30-04-2018 in the same post and in the same school, in terms of Clause (h) under sub-rule 2 of Rule 162 of the Goa School Education Rules, 1986 as amended vide Notification No. 28/297/Adm.I/B/2013/2643 dated 27-02-2014 and in terms of proviso to sub-rule 1 of Rule 88 of the Goa School Education rules, 1986 as amended vide Notifications No. DE/Amendment/2012-13/3610 dated 06-03-2013 and No. DE/Acad/Misc/Amendment-Rule/2016 dated 10-6-2016.

He has been declared medically fit for the job by the Medical Board, Department of Medicine, Goa Medical College, Bambolim-Goa vide certificate dated 02-02-2018.

His pay and allowances shall be fixed in terms of Central Civil Services (Fixation of Pay of Re-employed Pensioners) Orders, 1986.

By order and in the name of the Governor of Goa.

Gajanan P. Bhat, Director & ex officio Joint Secretary (Education).

Porvorim, 21st March, 2018.

Directorate of Art & Culture

Corrigendum

DAC/4/TA/2017-18/Part-III/05

Read: Order No. DAC/4/TA/2017-18/5882 dated 29-11-2017.

In the aforesaid order, the name of the Member Secretary may be read as Shri Cezar Aleixo Jose Fernandes de Mello instead of Shri Cezar D'Mello.

Other contents of the order remain unchanged.

By order and in the name of the Governor of Goa.

Gurudas P. Pilarnekar, Director & ex officio Joint Secretary (Art & Culture).

Panaji, 2nd April, 2018.

Department of Home

Home—General Division

Office of the Director General of Police

Order

No. CA-II/134/LOP on Prom./2191/2018

Dist. Order No. 167

On the recommendation of the Goa Public Service Commission conveyed vide letter No. COM/II/12/37 (2)/2017/978 dated 05-12-2017 and approved by Government of Goa conveyed vide letter No. 1/18/2014-HD(G)/125 dated 05-01-2018 by the Department of Home (General), Government of Goa, Secretariat, Porvorim-Goa, the Director General of Police (Goa) is pleased to lift the probation period of the below mentioned Scientific Officers of the Forensic Science Laboratory, Verna-Goa, as they have satisfactorily completed the probation period w.e.f. 04-11-2016:-

Sr. No.	Name of the officer
1	2
1.	Shri Gauresh V. Mapari.
2.	Shri Sushant M. Naik.

1. Shri Gauresh V. Mapari.
2. Shri Sushant M. Naik.

By order and in the name of the Director General of Police (Goa).

S. M. Prabhudessai, Superintendent of Police (HQ).
Panaji, 22nd February, 2018.

Notification

No. 2/3/2002-HD(G)/Part/952

In exercise of the powers conferred by sub-section (1) of Section 20 of Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the Government of Goa hereby appoints Deputy Collector & Sub-Divisional Officer-II, Salcete, Margao to be the Sub-Divisional Magistrate within the respective jurisdiction of the South Goa District with immediate effect.

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).
Porvorim, 27th March, 2018.

Addendum

No. CA-I/108(P)/Vol.V/3800/2018

Read: Order No. CA-I/108(P)/Vol.V/8341/2017 dated 29-09-2017.

The last para of the above read Order is added and read as below:

"4. The Officers are entitled for pay and allowances from the date of acceptance of promotions in terms of FR-17".

By order and in the name of the Director General of Police (Goa).

S. M. Prabhudessai, Superintendent of Police (HQ).
Panaji, 28th March, 2018.

Department of Information and Publicity

Notification

No. DI/INF/PUB-SUPP-BOOKS/PARL-LIB/2018/34

In exercise of the powers conferred by Section 9 of the Press and Registration of Books Act, 1867,

the Government of Goa hereby appoints Information Officer (Publications) in the office of Information and Publicity, Udyog Bhavan, Panaji-Goa to receive publications/books from the printers from the State of Goa.

By order and in the name of the Governor of Goa.

T. S. Sawant, Director & ex officio Jt. Secretary (Information & Publicity.)

Panaji, 3rd April, 2018.

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Department of Labour

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Order

No. 28/5/2018-LAB/231

Whereas the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Savoi-Verem V. K. S. S. Society Limited, Banking Section, Bazar, Savoi Verem, Ponda, Goa, and its workperson Ms. Vrunda V. Shet Verenkar, Credit Counter Incharge, in respect of the matter specified in the Schedule hereto (hereinafter referred to as the "said dispute");

And whereas the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (hereinafter referred to as the "said Act"), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under Section 7(1) of the said Act.

SCHEDULE

"(1) Whether the action of the management of M/s. Savoi-Verem V. K. S. S. Society Limited, Banking Section, Bazar, Savoi Verem, Ponda, Goa, in terminating the services of Ms. Vrunda V. Shet Verenkar, Credit Counter Incharge, with effect from 05-08-2017, is legal and justified?

(2) If not, to what relief the workperson is entitled?"

By order and in the name of the Governor of Goa.

A. S. Mahatme, Under Secretary (Labour).

Porvorim, 2nd April, 2018.

Notification

No. 28/3/2018-LAB/Part-I/205

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 22-02-2018 in reference No. IT/33/04 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

A. S. Mahatme, Under Secretary (Labour).

Porvorim, 20th March, 2018.

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IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding Officer)

Ref. No. IT/33/04

Miss Deepa Chari & 23 others,
Rep. by Gomantak Mazdoor Sangh,
Shetye Sankul, 3rd Floor,
Ponda, Tisk, Ponda, Goa. ... Workmen/Party I.

V/s

M/s Glenmark Laboratories Pvt. Ltd.,
Verna Industrial Estate,
Verna, Goa. ... Employer/Party II.

Workmen/Party I represented by Ld. Adv. Shri S. P. Gaonkar.

Employer/Party II represented by Ld. Adv. Shri M. S. Bandodkar.

AWARD

(Delivered on this the 22nd day of the month of February of the year 2018)

By Order dated 16-08-2004, bearing No. 28/10/2004-LAB-Part/607, the Government of Goa in exercise of powers conferred by Section 10(1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to this Tribunal for adjudication.

"(1) Whether the action of the management of M/s. Glenmark Laboratories Private Limited, Verna, in terminating the services of below mentioned workmen, with effect from the date

shown against their name, is legal and justified.

Name of the workmen	Date of termination
1	2
1. Ms. Deepa Chari	01-06-2004
2. Ms. Sumita Shirodkar	01-06-2004
1	2
3. Ms. Shilpa Shetkar	01-06-2004
4. Ms. Sudarshan Chingle	01-06-2004
5. Ms. Nilima Naik	01-06-2004
6. Ms. Sarika Naik	01-06-2004
7. Ms. Suman Bordekar	01-06-2004
8. Mr. Ganesh Kamat	26-06-2004
9. Mr. Nilesh Naik	26-06-2004
10. Mr. Subhash Gawas	26-06-2004
11. Mr. Vijay Naik	26-06-2004
12. Mr. Roshan Desai	26-06-2004
13. Mr. Faustin Fernandes	26-06-2004
14. Mr. Nityanand Kosmekar	26-06-2004
15. Mr. Laximikant D. Naik	26-06-2004
16. Mr. Vishwajit Lad	26-06-2004
17. Mr. Vinod Naik	26-06-2004
18. Mr. Rajesh Muli	26-06-2004
19. Mr. Shailesh Ajgaonkar	26-06-2004
20. Mr. Satish Velip	26-06-2004
21. Mr. Prasad Bhosle	26-06-2004
22. Mr. Rajaram Gawas	26-06-2004
23. Mr. Pramod Gawas	26-06-2004
24. Mr. Ajaykumar Jena	26-06-2004

(2) If not, what relief the workmen are entitled?"

2. Upon receipt of the reference, IT/33/04 was registered. Notices were issued to both the parties under registered post, upon which both the parties were served. Party I thereafter filed the Claim statement at Exh. 3 and the Party II filed Written statement at Exh. 4.

3. It is in short the case of the Party I that the Party II has established Pharmaceutical factory to manufacture various drugs for local and export and that it employed workers to carry out their permanent nature of work in production, maintenance, packing, dispensing, store, etc. in the factory and that these workers though were initially employed on contract were then taken on the roll of company. It is stated that the workers in the reference were independently working in shifts in different departments and that the products manufactured by them were sold in local markets as well as exported, however the workmen were not given any facilities and Party II continued to implement several unfair labour practices, such as keeping the workers as trainees for years and

though the workers were called as trainees, they were working independently in all the three shifts operating various machines and doing the skilled work. According to Party I all the workmen in the reference have worked continuously on permanent posts in all the three shifts in case of males and first shift in case of females. It is also stated that due to harassment and violation of provisions of various laws almost all the production workers of Party II have resolved to join the Union and accordingly, they joined Gomantak Mazdoor Sangh. Upon this, the General Secretary of the Union informed the above fact to the management vide letter dated 28-03-04 and also submitted a Charter of demands of the same date.

4. It is also stated that on receipt of these letters, the management started harassing the local committee members and active workers of the Union and as the employer started unfair labour practices, the Union by letter dated 02-04-2004 requested the Dy. Labour Commissioner for intervention however, the conciliation proceedings failed. It is also claimed that due to implementation of unfair labour practices and also on account of threats and harassment by Party II, all the workers held General Body Meeting on 30-05-2004 to decide the future course and almost all the workers have attended the said meeting. It is stated that on 31-05-2004 the workers namely Deepa Chari and six others were called by the management and asked the reason for not coming to work on overtime on 30-05-04 and the workers told that they had gone to attend the meeting, upon which, the management threatened them to resign from the Union and if not, their services would be terminated and upon the above information all the workers in the plant supported the above seven workers and initiated agitation. The management refused to discuss and the workers were asked to go out of the factory and accordingly, all were sent outside the gate and the said seven workers were issued termination letters on 01-06-2004.

5. All the workers thereafter initiated legal strike with effect from 01-06-2004 and thereafter from 26-06-2004 another seventeen workmen were terminated as they participated in peaceful and legal strike, without conducting any enquiry. It is stated that the workmen in reference have worked continuously for more than 240 days in the preceding twelve months. The Party II was having more than 300 workmen on its roll and hence, Chapter V-B of the Industrial Disputes Act, 1947 is applicable to the Party II. It is stated that the workmen in the reference were independently

working in the shifts doing the work of manufacturing, dispensing, packing, maintenance and operating the machines, etc. which is a perennial nature of work. It is also stated that since their termination, the workers are unemployed and they could not succeed in getting any job till date. The Party I has therefore prayed to declare that the termination of the workers as illegal, improper and unjustified and to direct the employer to reinstate all the workmen with full back wages and continuity of services.

6. In the written statement, the Party II has claimed that the reference itself is bad since the date of termination of the concerned persons as mentioned in the order of reference is itself bad-in-law. It is also the case of the Party II that immediately after joining the Union, the seven trainee technicians/packers at the behest and instigation by the Union leaders started sabotaging the life saving drugs by mixing the different products while packaging the said medicines and that such act on the part of said Party I was dangerous, detrimental and criminal during the training period itself and therefore there was no point in continuing their training and hence their contract was terminated with effect from 31-05-2004 and as they refused to accept the letters, on 01-06-2004 they were sent their earned salary, retrenchment compensation, notice pay and other dues by registered A.D., even otherwise the said trainees had no lien over their employment.

7. It is also stated that immediately thereafter and at the instigation of the Union leaders, some of the other trainee technicians and workers started non-cooperation and went on mass absenteeism/ /strike without notice and said mass absenteeism affected the production of the company and before resorting to strike, the said persons even sabotaged the valuable machineries by removing critical parts and hiding them and deliberately sabotaged the machinery so that the production would be hampered and company should lend in deep trouble. The Party I also threatened the other workmen who were not associating with them, of dire consequences. The company lost confidence in the said trainees and their continuation in the factory premises was detrimental to the smooth functioning of the plant. The Party I and contractual workers resorted to illegal strike by stopping the work and by leaving the premises on 31-05-2004 shouting slogans and abusing the employees of the company. They also manhandled some of the employees who were coming to work by threatening them. The action on the part of the

management was bonafide and as per the agreement entered into between the company and the trainee technicians and therefore, the reference deserves to be rejected.

8. In the rejoinder at Exh. 6, the Party I has denied the case set up by the Party II in the written statement.

9. Issues that came to be framed at Exh. 7 are as follows:

- (1) Whether the Party I/Union proves that the termination of service of the workmen by the Party II is in violation of the provisions of Chapter V-B of the I.D. Act, 1947?
- (2) Whether the Party I/Union proves that the action of the Party II in terminating the services with effect from the date mentioned against their names is illegal and unjustified?
- (3) Whether the Party II proves that the reference made by the Government is bad in law?
- (4) Whether the Party II proves that the workmen were appointed as trainees as per trainee agreement and since their performance was not satisfactory their trainee agreement was terminated?
- (5) Whether the workmen are entitled to any relief?
- (6) What Award?

10. In the course of evidence, the Party I examined Shri Puti Gaonkar as witness No. 1 and produced on record copies of declaration form signed by GMS dated 27-3-2004 at Exh. W-1 colly, copy of letter dated 28-3-2004 alongwith AD card at Exh. W-2 colly, a copy of letter dated 28-3-2004 at Exh. W-3, copies of Notices issued by Conciliation Officer in the matter of Charter of demands at Exh. W-4 colly, a copy of failure report dated 9-7-2004 at Exh. W-5, copies of termination letters dated 1-6-2004 at Exh. W-6 colly, copies of letter dated 25-6-2004 Exh. W-7 colly. Party I also examined Shri Nityanand Kosmekar as witness No. 2 and produced on record a copy of appointment letter dated 1-8-2003 at Exh. 15, a copy of letter along with receipt and cheque dated 25-6-2004 at Exh. 16 colly.

11. On the other hand, the Party II examined Shri Walter Gonsalves as witness No. 1 and produced on record copies of appointment letters of the workmen at Exh. 18 to Exh. 24, a copy of termination letter dated 31-5-2004 of the workman

at Sr. No.1 at Exh. 25, a copy of letter dated 1-6-2004 addressed to Party I along with copy of the receipt, cheque and the postal slip at Exh. 26 colly, a copy of termination letter dated 31-5-2004 addressed to the workman at Sr. No. 2 at Exh. 27, a copy of letter dated 1-6-2004 addressed to the workman at Sr. No. 2 along with copy of the receipt, cheque and the postal slip at Exh. 28 colly, a copy of termination letter dated 31-5-2004 addressed to the workman at Sr. No. 3 at Exh. 29, a copy of letter dated 1-6-2004 addressed to the workman at Sr. No. 3 along with copy of the receipt and cheque at Exh. 30 colly, a copy of termination letter dated 31-5-2004 addressed to the workman at Sr. No. 4 at Exh. 31, a copy of letter dated 1-6-2004 addressed to the workman at Sr. No. 4 along with copy of the receipt, cheque and the postal slip at Exh. 32 colly, a copy of termination letter dated 31-5-2004 addressed to the workman at Sr. No. 5 at Exh. 33, a copy of letter dated 1-6-2004 addressed to the workman at Sr. No. 5 along with copy of the receipt and cheque at Exh. 34 colly.

12. Shri Walter Gonsalves further produced on record a copy of termination letter dated 31-5-2004 addressed to the workman at Sr. No. 6 at Exh. 35, a copy of letter dated 1-6-2004 addressed to the workman at Sr. No. 6 along with copy of the receipt, cheque and the postal slip at Exh. 36 colly, a copy of termination letter dated 31-5-2004 addressed to the workman at Sr. No. 7 at Exh. 37, a copy of letter dated 1-6-2004 addressed to the workman at Sr. No. 7 along with copy of the receipt, cheque and the postal slip at Exh. 38 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 8 at Exh. 39, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 8 along with copy of receipt and cheque at Exh. 40 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 9 at Exh. 41, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 9 along with copy of receipt and cheque at Exh. 42 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 10 at Exh. 43, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 10 along with copy of receipt and cheque at Exh. 44 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 11 at Exh. 45, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 11 along with copy of receipt and cheque at Exh. 46 colly.

13. Shri Walter Gonsalves also produced a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 12 at Exh. 47, a copy of termination letter dated 25-6-2004 of workman at

Sr. No. 12 along with copy of receipt and cheque at Exh. 48 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 13 at Exh. 49, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 13 along with copy of receipt and cheque at Exh. 50 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 14 at Exh. 51, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 14 along with copy of receipt and cheque at Exh. 52 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 15 at Exh. 53, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 15 along with copy of receipt and cheque at Exh. 54 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 16 at Exh. 55, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 16 along with copy of receipt and cheque at Exh. 56 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 17 at Exh. 57, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 17 along with copy of receipt and cheque at Exh. 58 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 18 at Exh. 59, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 18 along with copy of receipt and cheque at Exh. 60 colly.

14. Shri Walter Gonsalves also produced on record a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 19 at Exh. 61, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 19 along with copy of receipt and cheque at Exh. 62 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 20 at Exh. 63, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 20 along with copy of receipt and cheque at Exh. 64 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 21 at Exh. 65, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 21 along with copy of receipt and cheque at Exh. 66 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 22 at Exh. 67, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 22 along with copy of receipt and cheque at Exh. 68 colly, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 23 along with copy of receipt and cheque at Exh. 69 colly, a copy of appointment letter dated 1-8-2003 of the workman at Sr. No. 24 at Exh. 70, a copy of termination letter dated 25-6-2004 of workman at Sr. No. 24 along with copy of receipt and cheque at Exh. 71 colly, a copy of appointment order dated 16-9-2000 at Exh. 72 and a copy of letter dated 14-3-2001 at Exh. 73.

15. Heard arguments. Notes of Written arguments came to be placed on record by Party I as well as Party II.

16. I have gone through the records of the case and have duly considered the arguments advanced. My answers to the above issues are as follows:

Issue No. 1	...	In the Affirmative.
Issue No. 2	...	In the Affirmative.
Issue No. 3	...	In the Negative.
Issue No. 4	...	In the Negative.
Issue No. 5	...	As per Final order.
Issue No. 6	...	As per Final order.

REASONS

Issue No. 4:

17. The Party I has claimed that they were employed to carryout permanent nature of work in production, maintenance, packing, etc. in the factory of Party II and were independently working in shifts operating machines and undertaking skilled work and therefore they are the 'workers' as defined under Section 2(s) of the Industrial Disputes Act, while it is the case of the Party II that they were appointed as 'Trainees' and therefore not covered under Section 2(s) of the Act and their trainee contract was dispensed with as stipulated therein. It is therefore evident that the case of the Party I is that of 'workmen' and that of Party II is that of 'trainees' and as, the status of Party I is challenged and it being relevant for deciding the above issue No. 4, it has to be taken up for discussion, ahead of other issues.

18. Ld. Adv. Shri S. P. Gaonkar for the Party I has submitted that the Party I workmen were working for Party II at Verna Industrial Estate and were carrying out permanent nature of work in production, maintenance, packing, dispensing, store, etc. in their factory and were on the roll of the company and were working in shifts in different departments. The workers were continuously forced to work for 12 hours without overtime wages and were not given any facilities and continued to implement several unfair labour practices such as keeping the workers as trainees, etc. The Party I workmen worked independently for last more than two years on permanent post in all the three shifts and due to the harassment and violation of provision of various law, all the production workmen of the Party II have joined the Union and submitted the Charter of demands. The management started unfair labour practices. The Party I workmen decided to hold general body meeting at Ponda on 30-5-2004 to decide future

course. However, the Party II terminated the workmen without holding any enquiry thereby affording them principles of natural justice on the alleged plea of sabotage which is misconduct under Certified Standing Orders of the company. The alleged termination, which is punitive in nature is bad and non-est for want of departmental enquiry and therefore the Party I workers are entitled for the reliefs claimed. In support of his contention, he relied upon the cases of (i) **Gujarat Steel Tubes Ltd vs. Gujarat Steel Tubes Mazdoor Sabha & Ors., (1980) 2 SCC 593;** (ii) **Delhi Cloth Mills Ltd. vs. Workmen, AIR 1967 SC 469;** (iii) **Ananda Bazar Patrika Ltd. vs. State, 2016 (3) CLR 192** and (iv) **Workmen of PMP Textiles vs. Management (Writ Petition No. 13159 of 1998 dated 03-01-2011).** (v) **Trambak Rubber Industries Ltd. vs Nashik Workers Union and Others, (2003) 6 SCC 416.**

19. Per contra, Ld. Adv. Shri M. S. Bandodkar for the Party II has submitted that the workmen have not been conferred with the status of confirmed workmen as it is clear from the appointment letters that it is only for fixed period as trainees and therefore the workmen who were trainees cannot be called as workmen under Sec. 2(s) of Industrial Disputes Act and the termination of the trainees appointed for a fixed period will not be stigmatic and therefore, no reliefs can be granted to the Party I. He further submitted that a trainee in whose appointment letter, it has been made clear that he would not have lien for the employment in the company after the completion of the training period and was paid only stipend, would not be a workman under the Industrial Disputes Act. He further submitted that in the absence of employer-employee relationship, the workmen are not entitled to seek any relief from the principal employer and any oral evidence of the workmen against the documentary evidence produced by the management is insufficient to prove its case. In support of his contention, he relied upon the cases of (i) **Workmen, rep. by Gomantak Mazdoor Sangh vs. Airport Authority of India, 2017 LLR 928;** (ii) **Mahinder Singh vs. Indian Airlines Ltd., 2016 III CLR 862;** (iii) **Kalyani Sharp India, Ltd. vs. Labour Court No. 1, Gwalior and another, 2001 (2) LLN 853;** (iv) **Escorts Limited vs. Presiding Officer and another, (1997) 11 SCC 521;** (v) **Management of M/s. Otis Elevator Co. (India) Ltd. vs. Presiding Officer, Industrial Tribunal-III & Anr., 2003 LLR 701;** (vi) **Nilesh Shivaji Sapkar, Pune vs. State of Maharashtra through Secretary, Labour Department Mantralya, Mumbai and Others.**

20. Discernibly, the 'workman' is defined under Section 2(s) of the Industrial Disputes Act, unlike the trainee and to decipher whether the person employed is a 'workman' or merely a 'trainee' one should not go by nomenclature attached to the post, but the nature of the job, which is material. The definition of workman in the Act of 1947 is an inclusive definition. Every person employed in an industry for a consideration would be considered as a workman for the purposes of the Industrial Disputes Act, 1947 save and except the categories of persons specified to be exempted from the purview of such Section. To come within the definition of 'workman' under Section 2(s) of the Industrial Disputes Act, 1947, a person has to establish that there is a relationship of master and servant or in other words 'Employer-Employee' relationship. Such relationship must be for a consideration. The consideration may be paid in cash or in kind and the workman concerned should be engaged in an industry. The nomenclature and the period of the appointment are also immaterial. All that a person needs to establish is that, an Employer-Employee relationship or a master and servant relationship coupled with a consideration.

21. Whereas, a 'trainee' is understood to mean that, an employee is taken into employment for the purpose of such person being trained in any trade or profession or calling. User of the word 'trainee' does not take away anything from an Employer-Employee relationship existing between the trainer and the trainee. The issue as to whether a trainee can be considered as a workman within the provisions of Section 2(s) was considered in **Tungbhadra Sugar Works (P.) Ltd, supra**. It has been held that, any person including an apprentice can be regarded as workman if he is employed in any industry to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward. In view of the above position of law and the evidence led by the parties, the Party I is required to establish a relationship of Employer-Employee between the Party II and the Party I and that persons concerned involved in the reference were 'workmen' within the meaning of Section 2(s) of the Act.

22. The Party I has claimed that they were working independently in all the three shifts operating various machines, doing skilled work on perennial nature of work, for last more than two years and due to harassment and violation of provisions of various laws, they have joined the Union and immediately after joining the Union, the Party II started unfair labour practices and

thereafter issued illegal letters of termination. Shri Puti Gaonkar who has been examined has also stated that the Gomantak Mazdoor Sangh had taken up the issue as Party I workers have joined the Union, the conciliation proceedings were held before the Dy. Labour Commissioner but it ended in failure. He also claimed that though the letters of appointment mention that they were working as trainee technicians, they were doing the work of permanent workmen on all the three shifts in case of male workers and that they were working on production line independently and were operating the machines. In the cross examination, he denied the suggestion that the workers were never harassed by the management or that the trainee employee does not get right of permanency in the services of Party II.

23. Shri Nityanand Kosmekar examined by Party I has stated that he along with others were working with the company since 19-3-2001 and he was doing the work of operator on cartoon printing machine. The workers were initially employed on contract and thereafter taken on the roll of the company. The other workers in the reference were independently working in the shifts in various departments like gelatin, medicament, drying, etc. and were carrying out the normal production of the factory in each shift in the said departments. He also stated that normally female workers were called in the first shift and the male workers in the other three shifts and that they were forced to work for 12 hours shifts without overtime wages at twice the rate of normal wages. The workmen were not given any facilities and the Party II continued to implement several unfair labour practices for years. The workmen were working independently in the shifts since their joining and have worked continuously on the permanent posts on all the three shifts. He also claimed that since the workers have joined the Union and have initiated the agitation, the workmen mentioned in the reference were illegally terminated.

24. Shri Nityanand in the cross examination has admitted that as per the appointment letter, he was appointed as a trainee technician with effect from 1-8-2003 to 31-7-2004 and he signed the letter and had accepted the terms and conditions of the appointment. He also admitted that he had not written any letter to the company even after termination stating that he was wrongly appointed or designated as a trainee. He denied the suggestion that he was not working in the permanent post and that his employment was a trainee or that he had not worked as an operator

on cartoon printing machine on a permanent post. He claimed that during his tenure with Party II, he had worked only on cartoon printing machine and blister packing machine. He denied the suggestion that during his tenure he was being trained to work on the said two machines. The fact that Shri Kosmekar was working on the machines show that they were involved in production. If the workers were not working in production, the management would have never alleged in the written statement that they were involved in sabotaging their products as it is clear that the workers working in production and related activities only could have access to the products.

25. The management has examined its Manager-Engineering and Projects, Shri Walter Gonsalves. He has stated that the Party I workmen were appointed as Trainee technicians for the purpose of training for a particular period and that their services could be dispensed with by the company even earlier to the training period at the discretion of the management as per the appointment letters issued to them. He also claimed that the workers resorted to illegal strike without notice and therefore their services were terminated. In the cross examination, he stated that the products which were produced by Party II were different types of tablets and capsules and there were about 8-10 machines for manufacturing tablets and about 6 machines for manufacturing soft gelatin capsule. He also stated that the blister packing was done on machines and tablets are packed in strips and then packed in boxes. He also admitted that in the year 2004, the machines used for manufacturing soft gelatin capsule was fully automatic and the paste preparation machine was not automatic and that the printing machine is also electrical machine and polishing of capsule and printing is done only of one batch at a time and that the manufacturing of capsules and tablets is a continuous process.

26. Shri Walter also admitted that packers were trained to put labels on shippers, cartoons, checking of tablets, blisters and strips and the labels were printed and pasted manually. He also stated that the packing was done only in general shift and if necessary in the second shift. The persons who are employed as technicians were qualified technicians and they were given training by the company before giving them the job. He volunteered to produce the documents to show that the workers were given training, however no such documents have been produced. The evidence of Shri Walter Gonsalves show the nature of work carried out by workmen and that they were

involved in production, packing, printing, etc. He also admitted that the job of packer includes feeding of tablet in a blister hopper, checking of web for availability of tablet, bringing the tablet drums to blister packing room, inspection of tablet strip and packing of product and that different packers are involved in doing the said functions. It therefore cannot be believed that such detailed production activities were carried out by mere trainees. It is thus obvious that the management has come up with false plea dubbing the workers as trainees and has camouflaged their appointments as trainees only to deny them the benefits as the fact that the workers were working in production as stated above were strong indicator that they were not trainees but regular workers as held in the case of **Trambak Rubber Industries Ltd., supra.**

27. Moreover, one cannot lose sight of the fact that for the purpose of Section 11-A of the Industrial Disputes Act, the status of workmen is not relevant as Section 2(s) uses the 'expression' any person, but the only requirement is that the workmen must be employed to do work which can be termed as manual, skilled, etc. The evidence on record including the cross examination of Walter Gonsalves show the nature of work done by the workmen concerned as all the workmen were either packers, technicians, etc and were engaged in production activities as it is impossible to believe that only with 18 permanent employees as stated by Shri Walter Gonsalves in para 4 of the affidavit, the work of production was being carried out and that the Party I workmen were given only training by the trainers. Shri Walter Gonsalves has also admitted in the cross examination that the Party II does not have any training school, but they had instructors who imparted training to those trainees and he was one of them, but he does not recollect the name of the other trainers. It is however not specified in the written statement as to who the trainers/trainees were and that Shri Walter Gonsalves was one of the trainers.

28. Needless to mention, there is no evidence on record that Party I workmen were considered for any specific training. No material has been produced to show that they were imparted any training in packing department or they had done any appraisal to verify the ability of the workmen for absorbing them against the permanent vacancy. The materials on record clearly suggest that although the appointment letters of Party I were couched as trainee technicians/packers, the terms of the letter and the nature of work performed by

the Party I workmen show that they were employed in the production department of Party II and that they could be transferred to any department or any place in India or abroad and were required to work in shift duty as and when required unlike the work of the trainee workmen. Moreover, there was no trainer or the training schedule or a period of evaluation of the so called training, which clearly suggest that the Party I workmen were regular employees.

29. The management also did not produce any evidence or documents to suggest that there was a trainer or trainers for Party I workmen and that there was periodic evaluation of the said so called training and quite on the contrary, the evidence led by the parties and admitted by Shri Walter Gonsalves establishes that the Party I workmen were treated as regular employees. Shri Walter has however denied that none of the employees including the packers were given training by the company and he volunteered to produce the documents to show that the workers were given training by the company. If the Party II had the documents of the training of the employees, nothing prevented the Party II to produce the said documents as it is their case that Party I workmen were their trainees as per the appointment letters and therefore not workman under Section 2(s) of the Act. The Party II therefore obligated to bring on record materials showing that the workmen were the trainees and that their services could have been terminated without following the due procedure of law.

30. It is an admitted fact that the management issued termination letters along with payment of legal dues at Exh. 25 to Exh. 38 colly. Needless to mention, the termination of the Party I workers was done prior to expiry of alleged training period as per the termination letters. The termination letters issued to the workmen show that they have been given salary for the month of May, 2004, leave encashment, one month notice pay and retrenchment compensation under Section 25-F of the Industrial Disputes Act, which clearly shows that the Party I are the workmen as retrenchment compensation are only paid to the workmen defined under Section 2(s) of the Industrial Disputes Act. It is not the case of Party II that the said compensation under Section 25-F has been paid without prejudice to their contention that they are not the workmen. If the Party I are not the workmen as claimed by them and merely the trainees, there is no question of payment of any legal dues to them. The fact that the Party I workmen were

employed to do manual, semi-skilled or skilled work like technician, packers etc as admitted by Shri Walter and that they were paid the legal dues in terms of law, negates the case of the management that they are merely the trainees and not the workmen. The contention of Ld. Adv. Shri M. S. Bandodkar as stated above and the reliance placed on the citations by him is not applicable to the case at hand as they turned on their own facts.

31. It is well settled that the burden to prove a particular fact is always on the person who alleges the same and the burden can be discharged by placing documentary evidence relied by him or the evidence adduced by the other side. It is also well settled that technical, formal and procedural points have almost no place in industrial disputes and the Tribunal should construe the reference in the light of the backdrop against which it is made and bring out the real dispute for its decision and has to see whether on weighing the probabilities, the materials placed by the Party, was acceptable or rendered probable as held in the case of **Delhi Cloth and General Mills Co. Ltd.**, supra. A little peep into the appointment letters produced on record of the Party shows that the Party I workmen were appointed as a Trainee technician/Trainee packers in their factory for a period of one year from 1-8-2003 to 31-7-2004 and if the performance during the training period was unsatisfactory, the training period could be extended further or dispensed with earlier at the discretion of the management and during the training period, they would be paid stipend of Rs. 2,200/- per month.

32. Evidently, clauses (1) and (2) of the appointment letters would indicate that the Party I workmen were appointed as trainees, however from clauses (3) and (4), it would indicate that the said workmen were not the trainees as trainees are not required to work in shift duties and the services cannot be availed of any department in the organization subject to exigencies of work and the management cannot reserve right to transfer them to any other plants or offices in India or abroad. There is no justification as to why a trainee is required to be transferred to other departments or in their own plants elsewhere in India or abroad, which is indication of fact that the workers are not trainees and their appointment letters are a sham. The above stipulations would clearly indicate that they were employed as regular workmen and not the trainees. If they were merely appointed as trainees, there was no need for above stipulation in the letters of appointment. The stipulation at clauses (3) and (4) demonstrates that although in

clause (1), the Party I workmen were designated as 'trainees' but for all practical purposes, the Party I workmen were considered as regular employees and the evidence establishes such a fact. It is well settled in the case of **Ananda Bazar Patrika Ltd.**, supra that when the appointment letters of the trainees include a transfer clause, it suggests that they were actually not trainees at all and that their designation or nomenclature as trainees is irrelevant. Moreover, the termination letters clearly mention that Party I workmen were being given salary and not stipend, which also shows that the management were treating the workers as regular workmen and not trainees.

33. Discernibly, clause (6) of the appointment letters of Party I show that on satisfactory completion of the training, the workers could be absorbed against the permanent vacancy, if any and in that event they would be appointed as probationers and a fresh appointment letter would be issued to them. It is also stated in clause (7) that they shall give an undertaking that all matters connected with their work or any other formula, process or information that may come to their knowledge in the course of their employment shall at all time be kept by them as strictly confidential and they shall not disclose the same to any other person or competitors directly or indirectly. The above two clauses of appointment letters show that they are entitled to be absorbed by the company after satisfactory completion of the training. The witness of the management however stated that as Party I were appointed as trainees technician/packers for a particular period, their services could be dispensed with by the company even earlier to the training period at the discretion of the management as per their appointment letters. No doubt, it is true that if the performance during the training period is unsatisfactory, the training period could be extended further or dispensed with earlier.

34. The termination letters however do not show that they have been discharged for non satisfactory performance, but as per clause (1) they were discharged as services are no more required, which is dehors the stipulation contained in the appointment letters. Discernibly, Clause (1) of the appointment letters of the Party I clearly shows that the services could be dispensed with earlier, if the performance during the training period is unsatisfactory. No performance appraisal has been produced on record nor do termination letters indicate that their performance during the training period was not satisfactory. There is nothing on

record that unsatisfactory performance of the Party was brought to the notice of the Party I workmen prior to their termination. The ground for termination only indicates that their services are no more required, which is not in compliance with clause (1) of the appointment letters. It is therefore the termination of Party I on the said ground smack of malafide and therefore cannot be sustained in terms of law.

35. In short, the evidence on record therefore clearly shows that the Party I workmen were all employed as regular workmen by Party II, although they were designated as 'Trainees' and were paid 'stipend' as per the appointment letters and 'salary' as per the termination letters. There was no training at all given to them, as also there were no trainers and though by nomenclature, the Party I workmen were called trainee technicians/packers, as a matter of fact they were all workmen involved in production activities as admitted by witness of the management, Shri Walter Gonsalves and the workmen who were working in production activities have to be termed as regular workmen and not as trainees. The Party II has not produced any documents including training schedule nor any material on record to show that they were only trainees and not regular employees. Merely because the appointment letters have been couched as trainees, one cannot go by nomenclature reflected in the appointment letters, but the nature of job undertaken by them. The Party II is involved in production and the Party I workmen were engaged in packing and other related works in the production and therefore though they were called trainees, the Party I workmen were involved in the production activities and therefore they have to be termed as regular employees. The Party II has therefore failed to prove that the Party I workmen were appointed as trainees as per training agreement and as their performance was not satisfactory, their agreements were terminated and hence, the issue No. 4 is answered in the negative.

Issue No. 1:

36. There cannot be any dispute that the provisions under Chapter V-B of the Industrial Disputes Act, is applicable to an industrial establishment in which not less than one hundred workmen were employed on an average per working day for the preceding twelve months and if the employer intends to retrench any workmen, he has to take prior permission of the Government under Section 25-N of the Act. Learned Advocate Shri S. P. Gaonkar for Party I has submitted that the Party II was having more than 300 workmen on its

roll as stated in para 26 of the claim statement and hence, Chapter V-B of the Industrial Disputes Act is attracted. The Party II in para 25 of the written statement has denied that the company is having more than 300 workmen on its roll and that it has only 18 permanent workmen, which is less than minimum requirement to attract the provision. Admittedly, the Party I has stated that the company was employing more than 300 workmen which is merely denied by Party II. The company could have given the exact number of workers employed in the establishment, but has merely stated that they are having only 18 permanent workers. Section 2(s) defines workman to mean 'any person' employed in the industry and is not restricted to only permanent workers. The company has not given the number of workmen who were on probation or temporaries or trainees, etc. It is therefore as rightly submitted by Ld. Adv. Shri S. P. Gaonkar that for the purpose of Chapter V-B, all the workman including on training, probation or temporaries have to be counted, which the company failed to specify. Mere denial amounts to admission. The company has not specifically mentioned the number of workmen and therefore, an adverse inference has be drawn against the company.

37. The witness, Shri Nityanand Kosmekar has stated at para 22 of the affidavit that Party I was having more than 300 workmen on its roll. In the cross examination, he has stated that all the employees of Party II had joined the Union. There were 25 permanent workers at the relevant time and the rest of the workers were designated as trainees. On page 12 of the cross examination, he stated that about 200 employees had attended the General Body Meeting on 30-5-2004 at Ponda and the said 200 employees included permanent employees, trainees, employees employed through the Manpower Development Cell and the workers of the contractors. The said fact has not been denied by the management, which clearly shows that there were more than 100 workers employed by the company at that relevant time. The company has not brought on record any documents to show the number of workers employed by them. Shri Walter Gonsalves in the cross examination has stated that there were only 18 permanent workmen but does not recollect as to how many of the 18 permanent employees were working as operators and will verify the records to show the exact number of employees working as operators, technicians and packers during 2001 to 2004, however no such records have been produced by him as he later admitted that he does not have such records. He also claimed that he does not

remember the total number of employees working with Party II as on date, however the same should be more than 100. It is thus the management has deliberately withheld the relevant materials from the Court regarding the number of workmen employed and therefore adverse inference has to be drawn against them to hold that there were more than 100 workmen working with Party II and therefore, Chapter V-B of the Act is applicable to the case at hand.

38. Needless to mention, the Party II has violated the provisions of Section 25-N, which are conditions precedent to the retrenchment of the workmen, according to which, the workman cannot be retrenched until the workman is given three months notice in writing indicating the reasons for retrenchment or the workman has been paid in lieu of such notice, wages for the period of notice and prior permission from the appropriate Government has to be obtained. The termination letters dated 26-5-2004 and 1-1-2004 show that the workers have not been paid in terms of provisions under Section 25-N of the Act. The said notices show that the company has paid retrenchment compensation under Section 25-F of the Act. The Party I therefore have proved that the termination of their services by Party II is in violation of Chapter V-B of the Industrial Disputes Act and therefore, issue No. 1 is answered in the affirmative.

Issue No. 2:

39. The Party II have alleged in para 3 of the Written statement that Party I joined the Gomantak Mazdoor Sangh and immediately after joining, they at the behest and instigation of the union leaders started sabotaging the life saving drugs by mixing different products while packing the said medicines and since the act of the Party I was dangerous and criminal in nature during the training period, there was no point in continuing their training and therefore, the first seven workers were terminated from services w.e.f. 31-5-2004. It was also stated that immediately after realizing that the seven workers were terminated, the other workers started non co-operation and went on mass absenteeism without notice, which affected the production of the company and before resorting to strike, the said persons even sabotaged the valuable machineries by removing critical parts and hiding them, so that the production would be hampered. They also threatened the other workmen who were not associating with them and therefore it was not possible for the company to continue them in the premises as the company has lost confidence in the said trainees, which would be

detrimental to the smooth functioning of the plant. The said allegations are not reflected in the termination letters nor there is anything on record that the said allegations were brought to the notice of the workers.

40. Be that as it may, the witness of the management, Shri Walter has stated in para 8 of the affidavit-in-evidence that the Party I workmen sabotaged the life saving drugs by mixing the different products while packaging the medicines. He, however has not stated anything about absenteeism, strike, threatening or loss of confidence in the workmen. In the cross examination, he has stated that he does not know whether there was an attempt to sabotage in packing department or whether the seven workmen were called by Production Manager in connection with the same. He admitted that no memos were issued to the trainee technicians who had allegedly sabotaged the life saving drugs by mixing different products while packing and that it is not mentioned in the termination letters that the services were terminated because they had sabotaged the life saving drugs. He claimed that the company was not happy with the performance of the trainees.

41. Shri Walter has also admitted that he does not recollect the exact date on which sabotage of life saving drugs was detected, but it was a week prior to letters of termination issued to the trainees and the drugs which were sabotaged are paracetamol and metformin tablets and that the said drugs were packed in blisters and blister packing is done on machines and not manually and the tablets are packed in strips. He also admitted that packers involved in packing the final product in boxes cannot mix the products. It is therefore besides the fact that there is no evidence of sabotage, strike, threats on the part of the workmen, the said products cannot be sabotaged in view of the fact that the Party I workmen were involved in packing of the final products in boxes and drugs are packed in strips on machines. Moreover, there is no report that the so called life saving drugs has been sabotaged by them as falsely claimed by Party II.

42. There is no dispute that the services of Party I workmen were terminated on the premise that they sabotaged their products, involved in strike and also threatened the co-workers, which fact has remained unproved. It therefore reveals that the alleged termination of the workers was punitive in nature. There is no dispute that no domestic enquiry was conducted into the alleged

misconducts committed by the Party I workmen. Shri Walter Gonsalves has admitted on page 24 of the cross examination that no departmental enquiry was held against Party I workmen before terminating their services. He has also stated that Party I workmen were involved in sabotaging the life saving drugs on instigation of the union leaders, threatening the co-workers, etc. and therefore the foundation of termination is based not on non-satisfactory performance on the part of Party I workmen, but on alleged ground of sabotage, strike, threats, etc. by the workmen, which is in other words mean that the foundation of termination is punitive in nature. Once the foundation of termination is punitive in nature, the employer must conduct a domestic enquiry and in the absence of enquiry, the termination has to be termed as per se illegal and bad-in-law and therefore cannot sustain as held in the case of **Gujarat Steel Tubes Ltd.**, supra. It is therefore the termination of the Party I workers without holding domestic enquiry is illegal and unjustified. It is in such circumstances, the issue No. 2 has to be answered in the affirmative.

Issue No. 3:

43. Ld. Adv. Shri M. S. Bandodkar for the Party II has submitted that the entire reference is bad-in-law and not maintainable as dates of termination of the persons concerned as mentioned in the order of reference is not correct. He further submitted that the workmen at Sr. No. 1 to 7 were terminated on 31-5-2004 but their date of termination has been shown as 1-6-2004. The workmen at Sr. 8 to 24 have been terminated on 25-6-2004 but the date of termination in the reference has been shown as 26-6-2004. He therefore submitted that there is formal defect and the Labour Court lacks competence to correct, modify, amend or alter the terms of reference or correct the name or the date of termination, etc. and in case it does so, the award becomes a nullity being without jurisdiction, based on a bad reference and in support of his contention, he relied upon the case of **Suresh Chandra vs. General Manager, Rajasthan State Bridge & Construction Corporation, 2002 (94) FLR 843.**

44. Per contra, Ld. Adv. Shri S. P. Gaonkar for the Party I has submitted and rightly so that in para 20 of the claim statement, it has been averred that all the seven workers were issued letters of termination on 1-6-2004. In para 23 of the claim statement, it was also pleaded that thereafter, the remaining 17 workmen were also terminated on 26-6-2004 as they participated in the peaceful and

legal strike. Shri Puti Gaonkar has also stated that Miss Deepa Chari and other 6 workers were terminated on 31-5-2004 and thereafter they were issued notice for payment of legal dues on 1-6-2004. The date of termination in the reference has been shown as 1-6-2004 for first 7 workers and 26-6-2004 for remaining 17 workers. The date of termination and the letter of payment of dues have different dates. The Party II has not proved that workmen received letters of termination on 31-5-2004 or 25-6-2004 respectively as the letters could have been backdated and issued to the workmen. In any event, the Hon'ble High Court in the case of **Sheshrao Bhaduji Hatwar vs. P.O., First Labour Court & Ors., (1992) 1 LLJ 672 Bom** has clearly held that technical, formal and procedural points have almost no place in industrial disputes and indeed it is the duty of the Courts and Tribunals to discourage ingenuity on such points and to adjudicate the controversy on merits as many a times the reference is cryptic and vague and is not properly worded and therefore in such cases, it is the duty of adjudicating authority to examine the pleadings, documents, etc. and to locate the exact nature of dispute.

45. Moreover, in the case of **Delhi Cloth & General Mills Co. Ltd.**, supra it has been held by the Apex Court that the formal defects have no meaning and have to be ignored by the Tribunal adjudicating the dispute. The order of reference should be liberally construed and the reference cannot be rendered incompetent merely because there is a typographical error in the form of dates of termination and it is permissible for the Tribunal to construe the reference in the light of backdrop against which it is made and to bring out the real dispute for its decision. The date of termination of the first 7 workmen as per the reference is 1-6-2004 and the remaining workmen as 26-6-2004, which is actually the date of notice of payment of legal dues. It is also not explained by Party II that the Party I workmen received the date of termination on 31-5-2004 and 25-6-2004 respectively as mentioned in the letters of termination. In any event, the said difference in one day of the date of termination is merely a formal, technical and procedural defect, which cannot be used to render the reference incompetent as rightly submitted by Ld. Adv. Shri S. P. Gaonkar for the Party I workmen. It is therefore, the submission of Ld. Adv. Shri M. S. Bandodkar and the reliance placed in the case of Suresh Chandra, supra pales into insignificance. It is therefore, the issue No. 3 is answered in the negative.

Issue Nos. 5 & 6:

46. Ld. Adv. Shri S. P. Gaonkar for the Party I has submitted that once it is held that termination is in violation of principles of natural justice and violation of Chapter V-B of the Industrial Disputes Act, the ordinary relief has to be reinstatement with full back wages and continuity in service as observed in the case of **Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidhyalaya (D.ED) & Ors., (2013) 10 SCC 324**. He further submitted that on question of back wages, it is clear that the management has not come forward to show that the said workers were employed anywhere. The said workers were actually involved in production and related activities and therefore are entitled for reinstatement with full back wages. Per contra, Ld. Adv. Shri M. S. Bandodkar has submitted that the Party I workmen at the most would be entitled for stipend upto 31-7-2004 from the last date of termination and not any other relief. The management has already paid the Party I workmen the compensation in terms of law. There was no lien of Party I workmen over the employment, which has been legally terminated. The Party I workmen were not permanent workmen but merely trainees and the relief of reinstatement would be granted only if the workmen are permanent and they have been illegally terminated and therefore, Party I workmen are not entitled for any relief.

47. The question therefore is what reliefs the Party I is entitled to, once it is held that the discharge/termination is illegal, whether the Party I is entitled for re-instatement with full back wages and continuity in service with consequential benefits attached to the post or adequate monetary compensation in lieu of reinstatement and back wages.

48. It has been consistently held by the Hon'ble Apex Court that relief by way of reinstatement with back wages is not automatic, even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate. It is also well settled that the Court in appropriate cases grant compensation in lieu of reinstatement keeping in view the length of service rendered by a workman, the wages that he was receiving during that period, which would meet the ends of justice and one can safely rely upon the cases, namely (i) **State Brassware Corpn. Ltd & Anr. vs. Uday Narain Pandey, 2006 1 CLR 39 S.C.**; (ii) **Uttaranchal Forest**

Development Corpn. Vs. M. C. Joshi, 2007 III CLR 84 SC; (iii) State of M.P. & Ors. vs. Lalit Kumar Verma, (2007) 1 SCC 575; (iv) Madhya Pradesh Administration vs. Tribhuban, 2007 II CLR 694 SC; (v) Sita Ram & Ors. vs. Moti Lal Nehru Farmers Training Institute, 2008 II CLR 763 SC; (vi) Jaipur Development Authority vs. Ramsahai & Anr. (2006) 11 SCC 684; (vii) Ghaziabad Development Authority & Anr. vs. Ashok Kumar & Anr., (2008) 4 SCC 261 and (viii) Mahboob Deepak vs. Nagar Panchayat, Gajraula & Anr., (2008) 1 SCC 575. (ix) Bhavnagar Municipal Corporation etc. vs. Jadeja Govubha Chhanubha & Anr., 2014 (8) Supreme 353.

49. In the instant case, the appointment letters of Party I workmen show that they were appointed w.e.f. 1-8-2003 to 31-7-2004 and were discharged during the course of said term. The said letters also show that they were appointed for a particular period and the same was admitted by Shri Nityanand Kosmekar. The letters of appointment as well as letters of termination issued to the Party I workmen indicate that they worked for a period of 10 months only and that the said termination had taken place about 14 years ago and were paid salary, leave encashment, one month notice pay and retrenchment compensation in terms of Section 25-F of the Act and therefore, relief of reinstatement and back wages to them would not be justified. However, considering that the Party II has violated provision of Chapter V-B of the Act, so also the nature of appointment, the length of service in terms of the appointment letters and the time taken to settle the dispute, ends of justice would be met, if the Party I workmen are paid a lumpsum monetary compensation of Rs. 1,50,000/- (Rupees One lakh fifty thousand only) for each workman, which would be just, proper and equitable in the facts and circumstances of the case. Hence, the above issues are answered accordingly.

50. In the result, I pass the following:

ORDER

- i. The present reference stands partly allowed.
- ii. It is hereby held that the action of the management of M/s. Glenmark Laboratories Private Limited, Verna, in terminating the services of above mentioned workmen is illegal and unjustified.
- iii. The Party II is directed to pay monetary compensation of Rs. 1,50,000/- (Rupees One lakh fifty thousand only) for each workman within 60 days of the publication of the

Award, failing which the Party II shall pay an interest @ 9% per annum.

iv. Inform the Government accordingly.

Sd/-
(Vincent D'Silva),
Presiding Officer,
Industrial Tribunal and
Labour Court.

◆◆◆
Department of Personnel

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Order

2/1/2001-PER (Part.IV)/970

- Read: (1) Order No. 2/1/2001-PER (Part-IV) dated 31-03-2016.
(2) Corrigendum No. 2/1/2001-PER (Part-IV) dated 12-10-2016.
(3) Order No. 2/1/2001-PER (Part-IV)/882 dated 31-03-2017.

The appointment of Shri Shamsundar Govind Korgaonkar as Ombudsman made vide order read at (1) in preamble and extended vide order at (3) in preamble, is further extended for a period of three months w.e.f. 01-04-2018 to 30-06-2018 in terms of Clause (b) on sub-rule (2) 3 of the Goa Government Employees (Redressal of Grievances Forum) Scheme, 2001 as amended.

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Personnel-II).
Porvorim, 29th March, 2018.

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Order

No. 6/9/2009-PER/Part IV/984

Consequent upon retirement on superannuation of Smt. Pushpalata Arlekar, Chief Executive Officer, Khadi and Village Industries Board, Shri Meghnath Porob, Director of Small Savings & Lotteries, shall hold the charge of the post of Chief Executive Officer, Khadi and Village Industries Board in addition to his own duties w.e.f. 01-04-2018 until further orders.

Smt. Arlekar shall draw her retirement benefits from the post of Leave & Training Reserve as she superannuated from ex-cadre post.

By order and in the name of the Governor of Goa.

Harish N. Adconkar, Under Secretary (Personnel-I).
Porvorim, 29th March, 2018.

Notification

No. 15/22/96-PER/Part-II/968

In accordance with the Recruitment Rules for the post of Block Development Officer, notified vide Notification No. 1/25/87-PER (Pt. II) dated 06-02-2013 published in the Official Gazette, Series I No. 46 dated 14-02-2013 and in accordance with sub-rule (2) of Rule 2 of the Goa (Departmental Examination for the Block Development Officers) Rules, 1999, notified under Notification No. 15/22/96-PER-Part I dated 04-10-1999 and published in the Official Gazette, Series I No. 30 dated 21-10-1999, the schedule for the Departmental Examination for Block Development Officers shall be as under:-

Date of Examination	Morning Session 10.00 a.m. to 1.00 p.m.	Evening Session 2.30 p.m. to 5.30 p.m.
12-05-2018	Paper (I)	Paper (II)

The syllabus for the said examination shall be in accordance to the Goa (Departmental Examination for the Block Development Officers) Rules, 1999, notified under Notification No. 15/22/96-PER-Part I dated 04-10-1999 and published in the Official Gazette, Series I No. 30 dated 21-10-1999 and the Goa (Departmental Examination for the Block Development Officers (First amendment) Rules, 2011, notified under Notification No. 15/22/96-PER/Part I dated 27-07-2011 and published in the Official Gazette, Series I No. 21 dated 25-08-2011.

The Examination shall be held in the Goa College of Pharmacy, Panaji-Goa.

The following Officers in the Cadre of Block Development Officer shall appear for the Examination and answer the papers as shown against their names, on the above mentioned date and time.

Sr. No.	Name of the Officer	Papers
1.	Shri Manesh Hari Kedar	II
2.	Shri Shrikant Babi Pednekar	I
3.	Shri Milindra Ganesh Velip	I and II

By order and in the name of the Governor of Goa.

Harish N. Adconkar, Under Secretary (Personnel-I).

Porvorim, 29th March, 2018.

Addendum

No. 22/8/2005-PER/967

Read: Order No. 22/8/2005-PER dated 19-03-2018.

In the order read in preamble, after third para, following para shall be added:-

On joining of Shri Vishram U. Borkar, S. P. as ADC to Hon'ble Governor of Goa, Shri Gajanan V. P. Desai, Dy. S.P. shall report to the office of Director General of Police for further posting with immediate effect.

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Personnel-II).
Porvorim, 29th March, 2018.

**Department of Public Health****Order**

No. 4/14/2003-II/PHD/Vol.XVIII/742

On the recommendation of Goa Public Service Commission conveyed vide their letter No. COM/II/12/30(1)/2018/1085 dated 26-02-2018, the Government is pleased to declare satisfactorily completion of probation period as well as confirmation of following doctors, Department of Anaesthesiology, Goa Medical College as having satisfactorily completed their probation period of two years as mentioned against their names, and to confirm them in the post of Assistant Lecturer in Anaesthesiology (ICU) in the Department of Anaesthesiology in Goa Medical College, Bambolim, with effect from the date of completion of their probation period:-

Sr. No.	Name of the doctor	Date of completion of probation period	Post in which confirmed
1.	Dr. Smita Gaude	18-08-2015	Assistant Lecturer.
2.	Dr. Apurva Kamat	14-10-2015	Assistant Lecturer.

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health).

Porvorim, 22nd March, 2018.

Order

No. 44/2/2017-I/PHD/816

On the recommendation of Goa Public Service Commission conveyed vide their letter No. COM/II/12/24(1)/2018/1084 dated 26-02-2018, the Government is pleased to declare satisfactorily completion of probation period as well as confirmation of following Officers under Directorate of Health Services as having satisfactorily completed their probation period of two years as mentioned against their names, and to confirm them in the post of Chief Biochemist under Directorate of Health Services, with effect from the date of completion of their probation period:-

Sr. No.	Name of the officer	Date of completion of probation period	Post in which confirmed
1	2	3	4
1.	Smt. Seema Palav, Chief Biochemist	20-12-2003	Chief Biochemist.
2.	Smt. Gauri P. S. Varde, Chief Biochemist	29-06-2014	Chief Biochemist.

By order and in the name of the Governor of Goa.

Maria Seomara De Souza, Under Secretary (Health).
Porvorim, 22nd March, 2018.

Order

No. 44/23/2012-I/PHD/856

Read: Order No. 44/23/2012-I/PHD/1295 dated 21-7-2017.

Government is pleased to accept the resignation tendered by Dr. Sarika Verenkar, Medical Officer under Directorate of Health Services and to relieve her from the post of Medical Officer under Directorate of Health Services with effect from 27-10-2016 (f.n.).

This is issued in supersession to the earlier Order referred above.

By order and in the name of the Governor of Goa.

Maria Seomara De Souza, Under Secretary (Health-II).

Porvorim, 26th March, 2018.

Order

No. 44/34/2017-I/PHD/888

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/II/11/24(1)/2018/1105 dated 08-03-2018, Government is pleased to promote Dr. Datta Hari Bhat, Homeopathic Physician to the post of Deputy Director (AYUSH) under the Directorate of Health Services on regular basis in the Level 11 of Pay Matrix [Rs. 15600-39100+GP: Rs. 6600/- (pre-revised)] and other allowances to be fixed as per rules with immediate effect.

The promotion is made against the vacancy occurred due to creation of the post of Deputy Director (AYUSH) vide Order No. 24/4/2013-II/PHD dated 14-01-2016.

By order and in the name of the Governor of Goa.

Maria Seomara De Souza, Under Secretary (Health).

Porvorim, 29th March, 2018.

Order

No. 22/5/2013-I/PHD (Part)/899

Read: Letter No. 22/5/2013-I/PHD dated 27-08-2014.

Approval of the Government is hereby conveyed for re-designation of the posts of 'Lecturer' to that of "Assistant Professor" in the Institute of Nursing Education under the Directorate of Health Services, subject to the condition that the pay scales, duties, required qualification of both the posts are equal and also their hierarchy, promotional avenues, mode of recruitment/selection are same.

This issues with the recommendation of the Administrative Reforms Department vide their U.O. No. 911/F dated 23-07-2014 and also with the concurrence of the Finance (Rev. & Cont.) Department vide their U.O. No. 1497104 dated 20-03-2018.

By order and in the name of the Governor of Goa.

Maria Seomara De Souza, Under Secretary (Health).

Porvorim, 29th March, 2018.

Order

No. 22/5/2013-I/PHD/866

The following Officers shall draw their salaries for the period as mentioned against the post indicated at column No. 3, created vide Order No. 22/5/2013-I/PHD dated 30-05-2016:-

Sr. No.	Name & designation	Salary to be drawn against the post of created vide Order No. & date	For the month of
1	2	3	4
1.	Smt. Carol Noronha, Principal, Institute of Nursing Education	Professor vide No. 22/5/2013-I/PHD dated 30-05-2016	April, 2018 & from May, 2018 onwards against the regular post.
2.	Ms. Ana Rauto D'Souza, Associate Professor	Professor vide No. 22/5/2013-I/PHD dated 30-05-2016	April, 2018 & from May, 2018 onwards against the regular post.
3.	Smt. Flossy Rita Rodrigues, Lecturer	Associate Professor vide No. 22/5/2013-I/PHD dated 30-05-2016	For the month of April, 2018 only.
4.	Shri Wilson N. Fernandes, Lecturer	-do-	-do-
5.	Ms. Shashilata Yadav, Lecturer	-do-	-do-
6.	Ms. Ana Maria Josephine Vaz e Braganza, Lecturer	-do-	-do-

For the post of Assistant Professor, as under:-

3.	Smt. Flossy Rita Rodrigues, Lecturer	Assistant Professor vide No. 22/5/2013-I/PHD dated 30-05-2016	May, 2018 & from June, 2018 onwards against the regular post.
4.	Shri Wilson N. Fernandes, Lecturer	-do-	-do-
5.	Ms. Shashilata Yadav, Lecturer	-do-	-do-
6.	Ms. Ana Maria Josephine Vaz e Braganza, Lecturer	-do-	-do-

Maria Seomara De Souza, Under Secretary (Health).

Porvorim, 27th March, 2018.

Order

No. 1/44/2017-II/PHD/855

The Government order issued vide No. 1/44/2017-II/PHD dated 20-02-2018 appointing Dr. Anar Khandeparkar, Associate Professor, Department of Medicine, Goa Medical College as the Professor and Head of Department of Department of Emergency

Medicine, Casualty and Trauma, Goa Medical College proposed to be set up stands "cancelled" with immediate effect.

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health).

Porvorim, 2nd April, 2018.

Order

No. 48/3/2017-I/PHD/931

Sanction of the Secretary (Health) is hereby conveyed for continuation of temporary Group "A" and "B" posts under Directorate of Health Services for a period of one year w.e.f. 01-03-2018 to 28-02-2019, as per the enclosed Annexure "A" and "B".

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health)/link.
Porvorim, 2nd April, 2018.

**Department of Revenue**

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Order

No. 26/2/98-RD (Part-II)/558

On recommendation of the Departmental Promotion Committee conveyed by the Goa Public

Service Commission, vide its letter No. COM/II/11/29(1)/2017/1107 dated 08-03-2018, Government is pleased to promote Ms. Domiana D. Nazareth, ISLR, Directorate of Settlement and Land Records to the post of SSLR (Group "B" Gazetted) on regular basis in the Pay Scale of ₹ 9,300-34,800+Grade Pay of ₹ 4,600/- (Level 7 of the 7th Pay Commission), with immediate effect.

Ms. Domiana D. Nazareth shall also exercise option for pay fixation within a period of one month from the date of issue of this order, in terms of F.R. 22(I)(a)(1).

By order and in the name of the Governor of Goa.

Sudin A. Natu, Under Secretary (Revenue-I).

Porvorim, 22nd March, 2018.

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