



# THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

---

নং 193 দিশপুৰ, বৃহস্পতিবাৰ, 7 মে', 2026, 17 ব'হাগ, 1948 (শক)  
No. 193 Dispur, Thursday, 7th May, 2026, 17th Vaisakha, 1948 (S. E.)

---

GOVERNMENT OF ASSAM  
ORDERS BY THE GOVERNOR  
LABOUR WELFARE DEPARTMENT

**NOTIFICATION**

The 27th February, 2026

**ECF No. 764392/14.-**Whereas dispute between the Management of S.K. Nishar Ali VS Sanoti India Ltd & 3 Ors. was referred to the Presiding Officer, Labour Court, Guwahati constituted under the Industrial Dispute Act, 1947 for adjudication and whereas an Award has been given on the dispute by the said Labour Court vide Ref. Case No. 02/2023 Judgment dated 18.2.2026 as shown in the Annexure hereto.

Now, therefore, in exercise of the powers conferred by Section 17(1) of the Industrial Disputes Act, 1947 (Act. XIV of 1947) as amended, the Governor of Assam, is pleased to direct that the said Award to publish by notifying at the Office of the Labour Commissioner, Assam, Guwahati.

(A W A R D As in the Annexure)

**ASHRAFUL AMIN,**  
Joint Secretary to the Government of Assam,  
Labour Welfare Department.

**IN THE LABOUR COURT OF ASSAM KAMRUP(M) AT GUWAHATI**

Present: Sri Lohit Kumar Saikia, AJS  
Presiding Officer  
Labour Court, Guwahati.

**CASE U/S 2A NO. 02/2023****PARTIES:-**

S.K Nishar Ali

..... **Workman**

- VS

Sanofi India Ltd. & 3 Others

..... **Management**

**APPEARANCE**

For the Workman : Sri .SK Nishar Ali

For the Respondents : Sri Koustabh Pradhan

Date of hearing/ argument : 30/01/2026

Date of Judgement : 18/02/2026

**AWARD****The facts of the case of the applicants, in a nutshell, may be stated as follows:-**

This proceeding has been initiated on the strength of petition No.135/23 u/s 2A(2) of the Industrial Act, 1947 by the workman with a prayer for full salary during his period of suspension and reinstatement with back wages and other benefits.

It has been averred in the petition that the workman was appointed as a sales promotion employee under the designation of Scientific Sales Executive through appointment letter dated 05/01/2015 at Silchar H.Q w.e.f 22/11/2014 and his daily routine work was to visit 7 doctors and 4 medical stores in a day to promote non applicant company's products through visual Aid /detailing folder and distribute samples and gifts provided by the non applicant company. The applicant was also required to visit distributors appointed by the non applicant company to book its orders and ensure adequate stock of non applicant company's products.

That for doing above said field work the applicant was required to go on tours as per the tour programme and after completing the above said field work of the day visiting doctors, medical stores, distributors, para medical staffs etc the applicant had to enter the details of his daily field work on his company's website called

“Omnipresence” which was considered as his attendance, since the applicant had only this mode to give his daily attendance to the non applicants.

It is further stated by the workman that he is an active member of SEAWU which is not liked by the company’s management and so the applicant was being threatened to leave the union activities or face dire consequences. On such threatening mail was sent from applicant RBM Mr. D Sadhukan and ABM Mr. Dipak Basak to the applicant on 28/8/2020.

That, since the applicant did not oblige the oral and written instructions from Sanofi management, Mr. D Sadhukan and Mr. Dipak Basak to quit SEAWU as a consequence of same the applicant was issued a showcause notice on 24/11/2020 to which the applicant gave the reply but the opposite party management did not listen to same and directly issued termination letter dated 24/12/2020 violating the law of natural justice and also section 25 F of Industrial Disputes Act 1947.

That the applicant was terminated without any domestic enquiry where as domestic enquiry is conducted in terms of what is known as ‘Natural Justice’. A domestic enquiry is an internal process of investigation and probing into any issue of dispute or contravention of any policy or violation of any disciplinary provision is handled in a systematic and organized manner.

That since the law of natural justice is not followed while issuing termination letter to the applicant and because the applicant is unemployed throughout he is entitled for sustenance allowance per month equal to an amount of his last drawn salary, during the pendency of this litigation.

Management / O.P No.1 submitted WS denying the contentions raised by the workman side and resisted their claims by pleading inter- alia that the petitioner is liable to be rejected since the petitioner is not a ‘workman’ as defined by Section 2 (s) of the Industrial Dispute Act.

That he has downgraded himself and deliberately suppressed his status and designation since right in the beginning of his appointment the paragraph 1 of his appointment letter he was appointed as a Scientific Sales Executive vide appointment letter dated 05-01-2015.

That the petitioner was holding above managerial and supervisory position by making independent decisions in his wisdom and as such not being a ‘workman’ and cannot invoke the provisions of Industrial Disputes Act, 1947. Further, the gross salary of the petitioner was much more amounting to Rs. 35,753/- per month after statutory deductions that the double of the prescribed ceiling for a workman under

Industrial Disputes Act, 1947 whereas a sales promotion employee gets minimum wages which will be thatn half amount being received by the petitioner.

That the petitioner revelas enough that pertaining to the union and he conceals about his misconducts. He has suppressed the most important fact that in his show cause reply he has not denied the commission of the misconduct. It is further stated that after temination of his service he has received his gratuity amounting to Rs. 49,808/- on 07-01-2021 without any objection, protest or reservation.

That prior to issuance of the show cause notice dated 24.11.2020 an investigation has been done in the matter by the Ethics and Business Integrity team. During the investigation the petitoiner's version was also taken and after that the show cause notice was issued. It is further stated that the petitoiner by his reply dated 06-12-2020 has admitted to the commission of the misconduct and as such on the admission on the part of the petitioner the petitoiner was terminated from his service by termination letter dated 24.12.2020.

In view of the above, the answering OP has prayed for dismissing the petition of the applicants with cost.

***Upon the pleadings of the parties, my learned predecessor framed the following issues for adjudication-***

1. *Whether the petitioner/ workman is defined U/S 2S of the ID Act?*
2. *Whether the termination of the workman from the service of the management as per order dated 24.12.2020 is unfair, illegal and in violation of natural justice and Section 25 F of the ID Act?*
3. *Whether the workman is entitled to reinstatement in the service of the management?*
4. *To what other relief/ reliefs, the workman are entitled to?*

### **SUBMISSIONS**

I have heard learned counsel for both the parties and perused the materials available on record. I have given my deep thought to the above submissions of the Ld. Counsel for the workmen/ applicants as well as Ld. Counsel for the O.P/ Management. Now, let us scrutinize the evidence adduced during the course of hearing in order to appreciate the aforesaid submissions of the Ld. Counsel of both the parties and decide the issues involved in this case.

### **Discussions, decisions and reasons thereof:**

At the threshold, let us discuss issue No.1 which is

**1. Whether the petitioner/ workman is defined U/S 2S of the ID Act?**

Sec 2 S of the Industrial Disputes Act, provides that:-

*“[ "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- [ Substituted by Act 46 of 1982, Section 2, for Cl. (s) (w.e.f. 21.8.1984).](i)who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or(ii)who is employed in the police service or as an officer or other employee of a prison, or(iii)who is employed mainly in a managerial or administrative capacity, or(iv)who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]*

Now, the subsequent submission made by the learned counsel for the management a question arises as to whether the workman/complainant can be held as workman under section 2S of the Industrial Dispute Act, 1947 ?

To answer the above question let us first see what does section 2A (2) states which is as follows:-

*“Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.(3)The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)”.*

In the present case in hand the workman/complainant has filed his petition before this Court within the stipulated time period and the materials available in

record also disclose that proper court fee has been paid and the suit does not appears to be barred expressly or impliedly by any law for time being in force.

Now, in the context of the case let us see whether the complainant of this case can be held as workman.

To prove an Executive or a supervisor is a "workman" under the Industrial Disputes Act, 1947, the focus is on demonstrating that their primary duties are not managerial or supervisory, but rather fall under the definition of manual, unskilled, skilled, technical, operational, clerical, or supervisory work as defined in the Act. The designation of the position is not the determining factor; rather, the nature of the actual work performed is crucial.

On perusal of the documents annexed by both the parties it is evident that the complainant though has the Scientific Sales Executive title of his post but his primary function is to perform skilled and technical functions with regard to raising sales for the company wherein he does not possess any self authority to appoint or dismiss a person on his own free will. Rather, it is the Management of the company responsible for recruitment or dismissal of a candidate.

A meticulous scrutiny of the documents annexed by both the parties shows that the complainant/ workman does not possess any administrative or directive authorities over any employees working under him.

It is pertinent to mention herein that Courts have consistently held that the dominant nature of the duties is the key factor in determining whether an employee is a workman.

For example, the Hon'ble Supreme Court in the case of **Ananda Bazar Patrika (P) Ltd. vs The Workmen on 7 February, 1969** provide further guidance on the interpretation of "workman" has clarified that a person with supervisory duties may still be considered a workman if their primary function is not managerial.

In essence, the Act aims to protect those engaged in the productive processes of an industry, but it distinguishes between those who are primarily involved in management and those who are involved in supervisory or other roles within the production process.

In the context of the present case in hand the complaint though performs the role of a Scientific Sales Executive in order to raise sales for the company but he has successfully established his claim that he does not possess the power for appointment, dismissal, disciplinary enquiry of any other employee subordinate to him and therefore falls within the ambit of workman category.

In view of the above discussions, the issue is decided in favour of the workman.

### **ISSUE NO. 2**

#### ***2. Whether the termination of the workman from the service of the management as per order dated 24.12.2020 is unfair, illegal and in violation of natural justice and Section 25 F of the ID Act?***

To discuss the above issue in hand it is pertinent for this Court to first peruse the Section 25 F of the Industrial Disputes Act which states that :-

*“25F. Conditions precedent to retrenchment of workmen.-- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-(a)the workman has been given one month 's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:[ Proviso omitted by Act 49 of 1984, Section 32 (w.e.f. 18.8.1984).](b)the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days 'average pay [for every completed year of continuous service][ Substituted by Act 36 of 1964, Section 14, for " for every completed year of service" (w.e.f. 19.12.1964).] or any part thereof in excess of six months; and(c)notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette.] [ Inserted by Act 36 of 1964, Section 14 (w.e.f. 19.12.1964).][25-FF. Compensation to workmen in case of transfer of undertakings. [ Substituted by Act 18 of 1957, Section 3, for Section 25-FF(w.e.f. 28.11.1956). Section 25-FF was originally inserted by Act 41 of 1956, Section 3.]- Where the ownership or management of an undertaking is transferred, whether by agreement or by operation of law, from the employer in relation to or that undertaking to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 25-F, as if the workman had been retrenched:Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if-(a)the service of the workman has not been interrupted by such transfer;(b)the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and(c)the new employer is, under*

*the terms of such transfer or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.]”*

It is the contention of the O.P / Management that the petitioner was appointed as Scientific Sales Executive vide letter dated 05-01-2015 and that he has been terminated on the ground of misconduct whereby a show cause notice was issued to him followed by an investigation which resulted in his termination.

The workman on the other hand has stated that as he was a member of Sanofi Employee's and Allied Workers Union (SEAWU) which was not liked by the management and hence he was illegally retrenched from his service. To establish his claim the workman has produced Exhibit-2 which is a copy of E-Mail wherein the workman has stated that he has withdrawn from the SEAWU association.

Now, for the sake of brevity let us peruse the cross examination of both the parties.

**Workman Witness No.1, Sri S.K Nishar Ali**, who is the petitioner of this case has stated that he was appointed as Scientific Sales Executive by the Management.

That he has not submitted any document to prove the contents of para No.4.

That he has not submitted blank bills for address purpose.

That it is a fact that having or keeping blank invoices of any other company or establishment is an illegal act.

It is suggested that the written evidence submitted by me on 22.08.2023 is not an evidence as per law.

**Workman Witness No.2, Sri Deependra Thapa** during his cross examination before this Court has deposed that he was one of the employee of Sanofi India Ltd.

That he was dismissed from service for submitting false bills of Hotel Mayur, Guwahati and that affidavit submitted by him is an evidence on affidavit in the eyes of law and he has not mentioned the name of Court, case number and the name of parties in my affidavit and the affidavit sworn by me before the oath commissioner Manipur at Imphal which has been sworn on a Rs. 100/- Non Judicial Stamp Paper and the same can be placed as an evidence on affidavit in a judicial proceeding.

The incident in respect of the receptionist handing over of blank word format bill to S.K Nishar Ali was told by him and he was not present along with him and whatever has been said to him by Nishar Ali was heard and said that he has no personal knowledge about the incident. Even he has not mentioned the name of the receptionist of Hotel Mayur, Guwahati in his evidence.

But the receptionist of Hotel Mayur, Guwahati is not a witness in the present proceeding and he has not mentioned the e mail address or the phone number in my evidence by which the blank word bill format was forwarded to Nishar Ali. Even he has not mentioned the date and time when the alleged blank word format bill was forwarded to Nishar Ali by

the receptionist in his evidence. It is also suggested that he along with Nishar Ali connived to defraud and cause loss to the company by raising false hotel bill illegally.

It is also stated that he has been dismissed from the services of the management but he is am not deposing falsely before this Hon'ble Court. It is also suggested that he along with Nishar Ali by making a conspiracy in raising false hotel bill and now deposing on behalf of Nishar Ali falsely. That he does not know whether Nishar Ali himself has stated in his evidence on affidavit that the word format bill was given by the receptionist. It is also suggested that he has made false deposition before the Hon'ble Court.

**Management Witness No.1, Sri Koustubh Pradhan**, has stated that he is working in this company since 1<sup>st</sup> of July 2021 as Manager Employee Relations and HR BP up to 2023. From 2023 -2024 I worked as People Excellence Partner and from 2024 till date he is working as Lead Employee Relations and Compliances. and his superior officers are Head of People and Culture and under him is Employee Relations Specialist and he agree that petitioner Mr. S.K Nishar Ali was working as Scientific Sales Executive of our company. Petitioner was responsible for handling sales, customer queries and to ensure and supply of medicines through the distributor and his superior officer of Scientific Sales Executive is Area Manager and Scientific Sales Executive is not the lowest post of the company. But he does not agree that only sales and promotion of company's product was the work assigned namely visit 10 Doctors, 6 medical stores in their company and any employee can avail leave from his immediate Area Manager after approval and Area manager, Regional Manager used to work with the petitioner during few days in a month and the petitioner is not an employee of lowest cadre in their company and he has not received any objection from the petitioner after full and final settlement. In Exhibit-C date of resignation of the petitioner from his service has been mentioned as 24-12-2020 and they have not received any resignation letter of service from the petitioner. He is aware of the union SEAWU but he does not know the members of the union SEAWU and he is also aware of the union HAIRC and the members of HAIRC are medical representatives. He is aware that Mr. Sailendra Lenka was working as a Scientific Sales Executive at Bhubeneswar Head Quarter who was termination from his service in 27<sup>th</sup> January 2023 and Mr. Sailendra Lenka's illegal termination case is pending before the Bhubeneswar Labour Court. Mr. Sailendra Lenka has been held workman by the Orissa High Court but the same is sub-judiced before the Supreme Court. In the para 2 of his evidence in affidavit that petitioner is not a workman u/s 2(s) of the ID Act, 1947 as such he is aware of the contention of the provision of Section 2(s) of ID Act and the Sales Promotion Employee Condition of Service 1976 and Acts are applicable all over India including Assam and Orissa. But he has not submitted HASH report along with his certificate filed u/s 65 (B) of Indian Evidence Act. He is aware that Bikash was staff of Hotel Mahalaxmi, Guwahati and that Hotel Mahalaxmi contact number as mentioned +919854031726 and that he has not filed any charge sheet against the petitioner and not submitted any proceeding of domestic enquiry along with report against the petitioner.

Now, on perusal of the materials available on evidence vis.a.vis the evidences in affidavit of both the parties it is evident that the management has conducted a departmental enquiry against the petitioner and on the basis of which the workman/petitioner was terminated from his service.

To discuss this point it is pertinent to lay down the rules of a Departmental Enquiry which is as follows:

*“A departmental enquiry for terminating an employee involves a structured, legally sound process, typically starting with the issuance of a formal charge sheet detailing misconduct. Key stages include serving the charges, conducting a fair investigation (hearing evidence/witnesses), submitting an enquiry report, and providing the employee with a final opportunity to explain before dismissal, adhering to principles of natural justice.”*

### **Steps in the Departmental Enquiry Process:**

**.Initiation & Preliminary Inquiry:** A complaint is filed, and a preliminary investigation takes place to check for prima facie evidence of misconduct.

- **Issuance of Charge Sheet:** A formal charge sheet or Show Cause Notice is served, detailing the specific allegations, along with a statement of allegations, and demanding a written explanation within a specified timeframe.
- **Appointment of Enquiry Officer (EO):** The disciplinary authority appoints an Enquiry Officer (and sometimes a Presenting Officer to present the management's case) to conduct the investigation.
- **Conducting the Enquiry (Regular Hearing):**
- **Preliminary Hearing:** The EO reads out the charges, records the employee's plea (admission or denial), and sets the timeline.
- **Evidence Collection:** Management presents witnesses and documents; the employee is given the opportunity to cross-examine management witnesses and produce their own defense evidence.
- **Recording Proceedings:** The entire process is documented, and the employee must be present for all proceedings.
- **Enquiry Report:** Upon closing the hearing, the EO prepares a report based on evidence, finding whether the charges are proven or not, and submits it to the disciplinary authority.
- **Final Action (Termination/Punishment):** The disciplinary authority reviews the report. If guilty, a final show-cause notice regarding the proposed punishment (termination) is given to the employee before the final dismissal order is passed.

*Failure to adhere to these procedural steps, particularly not providing a fair chance to be heard, can make the termination unlawful.”*

In the instant case in hand, prima facie, on perusal of entire case records it reveals that the management though has issued a show cause notice to the workman on 24<sup>th</sup> November 2020 but has not adduced any document before this Court which shows that a formal charge sheet was issued against the workman before conducting the enquiry.

Moreso, the management has also kept silent with regard to the key steps which are to followed while conducting a Departmental Enquiry such as appointment of a

enquiry officer, collection of any sorts of evidences, preliminary hearing and also a fair chance to the employee for giving any reasons thereof before the final dismissal order etc.

That apart, the management vide Exhibit-D which is Complaint Alert Report has brought to the notice of this Court that the investigation team attempted to conduct an external validation from Hotel Mahalaxmi on 13<sup>th</sup> April 2020 via telephone however the concerned person namely vikas declined to provide information the reationate that no guest information will be shared to protect privacy of individuals who stayed there. Further the investigation team of the management has also recorded the evidence of Sri Dipak Basak who is the Senior Area Manager, Diabetes.

What transpires from above is that the management has conducted the enquiry by not following the general principles of holding a Departmental enquiry and moreover the management has not adduced the staff of Hotel Mahalaxmi or Sri Dipak Basak as a witness to this case thereby collecting and exhibiting any evidences collected during the enquiry.

More importantly, the management has also not adduced the evidence of the Enquiry officer as a witness to this case who has conducted the enquiry to prove the authenticity of their enquiries held and authenticity of their signatures in their documents.

Therefore, from the above facts and circumstances, it can be held that the veracity or authenticity of the contents of the evidence of the management remains contradictory in absence of their attesting witness and the Management of SANOFI India Ltd. was not justified in removal of the petitioner from his service

In result, this issue is decided in favour of the workman.

### **ISSUE NO.3**

#### ***3. Whether the workman is entitled to reinstatement in the service of the management?***

In view of discussion held in Issue No.2, this issue is decided accordingly in favour of the workman.

### **ISSUE NO.4**

#### ***4. To what other relief/ reliefs, the workman is entitled to?***

The instant application was filed by the workman after he has been illegally terminated from his service and which has already been discussed and held in Issue No.2 that the workman has been illegally terminated from service.

The evidence in affidavit as well the written statement of the O.P/Management shows that there was disciplinary proceeding against the workman but the management/O.P has failed to adduce the evidence of Enquiry Officer thereby disproving the authenticity of the signatures in the enquiry report.

Therefore, in absence of any buttress or concrete evidence it is observed that the management has failed to establish their case, and in the result it is held that the workman is deserved to be reinstated.

It is also very much relevant to recite the decisions of the Hon'ble Apex Court in **1994 Supp (3) Supreme Court Case 671** wherein it has been categorically stated that *once the termination is found illegal consequential order of grant of back wages must follow unless there are reasons justifying a departure from normal order. Back wages must be granted from the date of termination till reinstatement.*

Therefore, in view of discussions made in issue No.2 it is held that the petitioner is entitled to be reinstated with full salary during the period of suspension and back wages and other admissible benefits.

For the reasons and discussions made above all the four issues are answered in the affirmative and in favour of the workman.

**The workman are entitled to the following reliefs:-**

1. Since, it has been already held that the workman has been illegally retrenched from his service so he is entitled to be reinstated with full salary during his period of suspension and back wages and other admissible benefits within two months from the date of passing of this award till realisation.
2. Management is directed to pay compensation amount of Rs. 50,000/- towards grant for illegal termination of the workman.

A copy of the award be forwarded to the appropriate government for information and publication in the official gazette.

The case stands disposed of on contest.

Given under my hand and seal on this 18<sup>th</sup> day of February 2026 at Guwahati.

**L. K. SAIKIA,**  
Presiding Officer,  
Labour Court, Guwahati.