

(2026) 01 MP CK 1839

In the Madhya Pradesh High Court, Indore Bench

Case No : Writ Appeal No. 3155 Of 2025

Jyoti Kumar

APPELLANT

Vs

M/S Zydus Healthcare Ltd And Others

RESPONDENT

Date of Decision : 21-01-2026

Acts Referred:

Constitution Of India, 1950 — Article 142

Madhya Pradesh Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005 — Section 1

Industrial Disputes Act, 1947 — Section 2(s), 2(s)(4), 9(a), 25(f), 33, 33A & Sales Promotion Employees (Conditions Of Service) Act, 1976-Section 2(d), 6

Citation : (2026) 01 MP CK 1839

Hon'ble Judges : Vijay Kumar Shukla, J;Alok Awasthi, J

Bench : Division Bench

Advocate : Vimal Raghuvanshi, Anurag Lakhotia, Aditya Goyal

Final Decision : Dismissed

Judgement

Vijay Kumar Shukla, J

1. The present intra court appeal is filed under section (1) OF M.P. UCHHANYAYALYA KHANDPEETH KO APPEAL ADHINIYAM, 2005 being aggrieved by the order dated 27.08.2024 passed by learned Single Judge in MP No.5782/2023 and order dated 01.09.2025 passed in RP No.1209/2024, whereby, the learned Single Judge allowed the petition filed by the respondent/company holding the petitioner (respondent herein) does not fall within the definition of Workman, and therefore, the reference made by the State Government to the Labour Court was within the jurisdiction. Against the said judgement, review filed by the appellant has also been dismissed.

2. The facts of the case are that the respondent is a Public Limited Company established under the Companies Act and is in the business of manufacturing and selling pharmaceutical products, and it has a complete team of Business Officers (BOs) and Senior Business Officers (SBOs) across India, who work as M.R's

(Medical Representatives).

3. The appellant was employed as a Medical Representative (Sales Promotion Officer). He has been receiving a salary of more than Rs.10,000/- per month and he has been doing the work of a Medical Representative, thus, does not fall within the definition of 'workman' under the Industrial Disputes Act, 1947. The appellant has been suspended from his services through Suspension Letter dated 10.10.2020 and has been issued charge-sheet dated 17.10.2020 on the ground of false reporting. The appellant, after receiving the suspension letter, had filed a complaint before the Labour Office, Dewas, Madhya Pradesh, wherein he had stated that his service conditions had been changed as he has been suspended without any charge-sheet and that there was some kind of a deduction from his monthly salary. The notice had been issued on the said complaint on 20.10.2020 to which the Management has sent a reply on 28.10.2020. Thereafter, on 07.11.2020, the appellant again filed a complaint before the Labour Office, Dewas, wherein he made allegations under Section-9 (a) that there is a change in his service conditions, as the respondent was conducting enquiry against the Industrial Disputes Act. The said complaint was taken on record. However, as such, no notice was issued to the Management over the said complaint. Thereafter, following the principles of natural justice detailed enquiry was conducted and the services of the appellant were dismissed through the termination letter dated 30.06.2021.

4. Instead of challenging the dismissal, the appellant had filed an Application under Section-33A before the Labour Court, Dewas, wherein he had alleged that the conciliation proceedings were pending from 14.10.2020 till the time he had filed that application, and that his services had been dismissed without taking any permission and the same is against Section-25(f), Section-9(a) as well as Section-33. Thus, he prayed that the termination letter dated 30.06.2021 should be set aside and he sought reinstatement with full back wages.

5. The Labour Court had entertained the said application under Section-33A and issued notice seeking reply from the Management and registered it as a Reference under Case No.27/2021 by initiating the adjudication of the said application against the Management. Against the said actions, the Management filed a Misc. Petition No. 4834 of 2021 wherein the Court vide order dated 17.11.2022 set aside the order dated 12.10.2021 passed by the Labour Court, Dewas in case no. 27/ID/2021 whereby, the Labour Court has registered the application under Section 33A of the Industrial Disputes Act, 1947. Further, liberty was granted to the appellant to file fresh application under Section 10 of the Act before the Labour Officer / Conciliation Officer, Dewas against his termination with a direction to the Labour Office to proceed in accordance with law, however the Court has specifically clarified that the Court has not reflected on the merits of the matter and that the Conciliation Officer shall decide the matter in accordance with the law on its own merits including objection of the respondent regarding jurisdiction of the Labour Officer.

6. Thereafter, the appellant moved to the Conciliation Officer, Dewas and filed an application under Section 10 of the Act dated 05.12.2022 with a prayer inter-alia to set aside his termination to which the management submitted a detailed reply dated 06.12.2022 with a preliminary objection of territorial jurisdiction and the appellant admittedly being a 'Medical Representative' or Sales Promotion Employee and therefore, not a workman under the Industrial Disputes Act, 1947. However, without considering the same, the Deputy Labour Commissioner, Indore passed the impugned reference dated 14.03.2023 no.70/7-- /2023/8123-30. Thereafter, Labour Court, Dewas has initiated the proceedings as Ref. No. 12/2023; "Sh. Jyoti Kumar Sharma vs. M/s Zydus Healthcare Ltd. & Ors." on the impugned reference order.

7. The impugned reference order was challenged on the ground that Medical representative/sales promotion officer is not a workman under Section 2 (s) of the Industrial Disputes Act, 1947.

8. The learned Single Judge held that in Paragraph-1 of Annexure-P-4, i.e. the statement of claim of appellant states that he is continuously working with the respondent/company as the Medical Representative since 1997 vide appointment letter dated 03.03.1997. The description of his work of Sales Promotion Officer is mentioned to contact the Doctors and Medical Store Proprietor to provide the sale of medicines and accept the booking orders from the Medical Store Promoters, and Doctors forward the same to the stockist for supply of the medicines. This nature of his work clearly shows that he was required to perform a duty of skilled or technical nature and therefore he was not a "Workman" and dismissed the petition referring the judgment passed in the case of Samat Kumar Vs M/s Parke Davis India Ltd reported in 1997 (2) JLJ 353. The review was also dismissed, hence, present intra-court appeal is filed.

9. On 11.12.2025, counsel for the respondent argued that the issue "whether Medical Representative/Sales Promotion Officer falls under the category of Workman or not" has already been settled in various judgments by this Court/co-ordinate bench and the Apex Court. The authorised person for the petitioner had taken time to go through the same and then to argue.

10. He argued that the aforesaid judgments are distinguishable as they were dealing the issue of a "Medical Representative" and not "Sales Promotion Officer", who are appointed under Sales Promotion Employee (Condition of Service) Act, 1976. To bolster his submission he has relied on the following judgments:-

S.No.

Particular

1.

May and Baker Vs Their Workmen, AIR 1967 SC 678, Supreme Court of India

2.

DP Maheshwari Vs Delhi. Admin, 1983 SCR (3) 949, Supreme Court of India

3.

Ripu Daman Vs Preciding Officer, 1997 (1) LU 557, (DB) Punjab and Haryana High Court

4.

Cipla Ltd Vs. Ripu Daman, CA 2230/1999, Supreme Court of India

5.

Rhone Polenc Vs State Of UP, 2000 (7) SCC 67, Supreme Court of India

6.

Novartis India Vs Vipin Srivastava WA No.75/2017

7.

Novartis India Ltd Vs Association, 2005 (2) LU 964, High Court of Bombay

8.

Anand Regional Vs. Shaileshkumar, 2006 (6) SC 548, Supreme Court of India

9.

Novartis India Ltd Vs State of WB, 2009 (3) SCC 124, Supreme Court of India

10.

Themis Medicare Vs The Asstt., WP No. 21624/2011, MP High Court Indore

11.

Glenmark Pharmaceutical Vs The Judge, DB CSA (W) No.801/2014 High Court of Rajasthan at Jodhpur

12.

Glenmark Pharmaceutical Vs Rajesh Joshi, SLP (C) CC No.22895/2015, Supreme Court of India

13.

Deepak Kumar Vs Torrent Pharmaceutical, LPA NO.1798/2012, High Court of Patna

14.

Rajkamal Vs Gas Antibiotic & Pharmaceutical, SS No.7871/1992, High Court of Allahabad at Lucknow

15.

UCB India Vs Additional Labour, WP- 2499/2017, MP High Court Indore

16.

Novartis India Vs The Chairman, WP No. 15696/2009, High Court Of Andhra Pradesh, Amaravati

17.

Deepak Kumar Vs Torrent Pharmaceutical, Award, Ref. Case No. 04/2006, Labour Court, Muzaffarpur

18.

Nicholas Piramal Vs Presiding officer, WC No.1004529/2007 High Court of Allahabad at Lucknow

19.

Vipin Srivastava Vs Novartis India, SLP(C) No.6309/2019 Supreme Court of India

20.

S.Raja Vs Panacea Biotech, WP No. 352/2024, High Court of Madras

21.

Nicholas Piramal Vs GC Suri, CA No. 2390/2025, Supreme Court of India

22.

UCB India Vs Additional Labour, WA No. 284/2020, MP High Court Indore

23.

Vishal Singh Vs Sun Pharmaceutical, CWJC No.5202/2022 High Court of Patna

24.

Vimal Vs Abbott healthcare, SLP(C) Diary No.6766/2024 Supreme Court of India

11. Per contra, counsel for the respondent relied on the following judgments:-

S.No.

Particulars

1.

Novartis India Ltd Vs Vipin Shrivastava and Ors WA No.75/2017, High Court of MP Bench Indore

2.

Vimal Vs. Abbott Healthcare Pvt. Ltd and Ors WA No.43/2021, High Court of MP

Bench Indore

3.

Sanat Kumar Vs. Parke Davis (India) Ltd. 1996 SCC OnLine MP 708 High Court of Madhya Pradesh

4.

Zydus Healthcare Ltd Vs. Brijesh Singh WP No.24851/2021 High Court of MP

5.

Provimi Animal Nutrition India Pvt Ltd Vs. Secretary MP Medical and Sales Representatives Association and Anor WP No.1307/2017 High Court of Madhya Pradesh

6.

Intas Pharmaceuticals Ltd Vs. Yogendra Singh Chouhan 2020 SCC OnLine MP 2738 High Court of Madhya Pradesh

7.

Yogendra Singh Chouhan VS. Intas Pharmaceuticals Ltd and Ano WA No.46/2021 High Court of Madhya Pradesh, Indore

8.

MP Medical and Sales Representatives Association and Anor Vs. Provimi Animal Nutrition India Pvt Ltd WA No.07/2019 High Court of Madhya Pradesh

12. The question for consideration is whether a Medical Representative falls within the definition of "workman" in terms of Section 2(s) of the Industrial Disputes Act, 1947.

13. A three-Judge Bench of the Hon'ble Supreme Court in the case of May and Baker (India) Limited vs. Workmen', reported in AIR 1967 SC 678 had an occasion to directly deal with the question as to whether the Medical Representatives of the company, who are discharged from service, are the workman under the Industrial Disputes Act and the order of reinstatement passed by the Industrial Tribunal was, therefore, valid. The Hon'ble Supreme Court referred to the undisputed nature of the duties of the employees and found that his main work was of canvassing sales. Any clerical or manual work that he had to do was incidental to the said main work, and could not make more than a small fraction of time for which he had to work. In the circumstances, the Hon'ble Supreme Court held that the Tribunal's conclusion that the employee was a workman under the Industrial Disputes Act was incorrect.

14. A similar issue was considered by a three-Judge Bench judgment of the Hon'ble Supreme Court in the case of Western India Match Company Limited vs. Workman reported in AIR 1964 SC 472. The question before the Court was

whether the sales office was entirely independent of the factory or was a department of the one and the same unit of production, and whether Inspectors, Salesman and Retail Salesman of the sales office were workmen within the meaning of U.P. Industrial Disputes Act. The matter was referred by the State Government for adjudication to the Industrial Tribunal on 18.08.1961. After a detailed analysis of the matter, the Bench following the earlier decision in the case of May and Baker's case (supra) has arrived at a similar finding that they cannot be termed as a workman in terms of the definition under the Act of 1947.

15. A similar issue was considered in the case of *Burmah* (Supra) and again the judgment passed in May and Baker's case (supra) was taken into consideration and the Court has given the verdict in the light of May and Baker's case. The three-Judge Bench in the case of May and Baker (supra) has taken a view that a person to be qualified to be a workman must be doing the work which falls in any of the four categories viz. manual, supervisory, technical or clerical. If a person does not fall within the four exceptions to the aforesaid definition, he is a workman within the definition as provided under Section 2(s) of the Act of 1947. Therefore, the position is clarified by the Hon'ble Supreme Court in the aforesaid cases.

16. The Constitutional Bench of Hon'ble Supreme Court in the case of *H.R. Adyanthaya and Ors Vs. Sandos (India) Ltd and Ors* reported in (1994) 5 SCC 737 wherein the Hon'ble Supreme Court has held as under:

"24. We thus have three three-Judge Bench decisions which have taken the view that a person to be qualified to be a workman must be doing the work which falls in any of the four categories, viz., manual, clerical, supervisory or technical and two two-Judge Bench decisions which have by referring to one or the other of the said three decisions have reiterated the said law. As against this, we have three three-Judge Bench decisions which have without referring to the decisions in *May & Baker* [(1961) 2 LLJ 94 : AIR 1967 SC 678 : (1961) 2 FLR 594] , *WIMCO* [(1964) 3 SCR 560 : AIR 1964 SC 472 : (1963) 2 LLJ 459] and *Burmah Shell* [(1970) 3 SCC 378 : (1971) 2 SCR 758 : AIR 1971 SC 922 : (1970) 2 LLJ 590] cases have taken the other view which was expressly negated, viz., if a person does not fall within the four exceptions to the said definition he is a workman within the meaning of the ID Act. These decisions are also based on the facts found in those cases. They have, therefore, to be confined to those facts. Hence the position in law as it obtains today is that a person to be a workman under the ID Act must be employed to do the work of any of the categories, viz., manual, unskilled, skilled, technical, operational, clerical or supervisory. It is not enough that he is not covered by either of the four exceptions to the definition. We reiterate the said interpretation.

33. It was contended by Shri Sharma, appearing for the workmen that the definition of workman under the ID Act includes all employees except those covered by the four exceptions to the said definition. His second contention was that in any case, the medical representatives perform duties of skilled and

technical nature and, therefore, they are workmen within the 3 meaning of the said definition. We are afraid that both these contentions are untenable in the light of the position of law discussed above. The first contention was expressly negated by two three-Judge Benches in *May & Baker* [(1961) 2 LLJ 94 : AIR 1967 SC 678 : (1961) 2 FLR 594] and *Burmah Shell* [(1970) 3 SCC 378 : (1971) 2 SCR 758 : AIR 1971 SC 922 : (1970) 2 LLJ 590] cases as has been pointed out in detail above. As regards the second contention, it really consists of two subcontentions, viz., that the medical representatives are engaged in 'skilled' and 'technical' work. As regards the word 'skilled', we are of the view that the connotation of the said word in the context in which it is used, will not include the work of a sales promotion employee such as the medical representative in the present case. That word has to be construed *ejusdem generis* and thus construed, would mean skilled work whether manual or non-manual, which is of a genre of the other types of work mentioned in the definition. The work of promotion of sales of the product or services of the establishment is distinct from and independent of the types of work covered by the said definition. Hence the contention that the medical representatives were employed to do skilled work within the meaning of the said definition, has to be rejected. As regards the 'technical' nature of their work, it has been expressly rejected by this Court in *Burmah Shell* case [(1970) 3 SCC 378 : (1971) 2 SCR 758 : AIR 1971 SC 922 : (1970) 2 LLJ 590]. Hence that contention has also to be rejected.

39. We are, therefore, of the view that the contention raised on behalf of the management in this appeal, viz., since the medical representatives are not workmen within the meaning, of the Maharashtra Act the complaint made to the Industrial Court under that Act was not maintainable, has to be accepted. Hence the complaint filed by the appellant-workmen under the Maharashtra Act in the present case was not maintainable and hence it was rightly dismissed by the Industrial Court."

17. The judgment in *H.R. Adyanthaya's* case (*supra*) has come up for consideration before a Division Bench of this Court in *Samat Kumar* (*supra*), wherein the reference to the Labour Court was subject matter of challenge on the part of the management. Though the workman was said to be working as 'Area Sales Manager' in managerial capacity drawing salary of more than Rs.1,600/-, therefore, he was not a workman but while examining the scope of *Adhyanthaya's* case (*supra*), the Court held that the work of promotion of sales of the product or services of the establishment is distinct from and independent of the types of work covered by the said definition under Section 2(s) of the ID Act. The relevant extract of the Division Bench judgment reads as under:-

"10. As against it, learned counsel for the respondent No.1 has placed reliance on a case as reported in 1988 (II) MPWN 116 = AIR 1988 SC 1700 (*Miss A. Sundarambal v. Govt. of Goa, Deman & Diu and others*) whereby it was held that teacher employed in a school is not a workman. But, now the dispute stands resolved with respect to the cases of Medical Representative as reported in AIR

1994 SC 2608 [H.R. Adyanthya etc. v. Sandoz (India) Ltd. etc. etc.] whereby it has been held that 'Workman' does not include all employees except those covered by four exceptions in said definition of section 2(s) of Industrial Disputes Act. Medical Representatives do not perform duties of 'skilled' or 'technical' nature and therefore, they are not 'workmen'. The connotation of word 'skilled' in the context in which it is used, will not include work of a Sales Promotion Employees such as Medical Representative. That word has to be construed ejusdem generis and thus construed, would mean skilled work whether manual or non-manual, which is of a genre of the other types of work mentioned in the definition. The work of promotion of sales of the product or services of the establishment is distinct from and independent of the types of work covered by the said definition."

After returning such finding, it was held that the reference was not maintainable as Medical Representative would not fall within the definition of workman.

18. In German Remedies Limited's case (supra) relying upon H.R. Adyanthaya's case (supra) held that the Medical Representative is a workman. The relevant extracts of the said decision in German Remedies Limited's case read as under:-

"14. With regard to meet out, the objections - the petitioner about the status of respondent No. 2, whether he would be a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947, has to be dealt with. The Apex Court had an occasion to consider a similar question in a judgment H.R. Adyanthaya v. Sandoz (India) Ltd. and others [(1994) 5 SCC 737]. The Apex Court in the said case was considering the status of Medical Representatives and the Apex Court came to the conclusion that since there had been an amendment in the provisions of the Industrial Disputes Act, 1947 and also by virtue of the provisions of Section 6 of the Sales Promotion Employees (Conditions of Service) Act, 1976 makes application to the provisions of the Industrial Disputes Act, 1947 as in force for the time being, therefore, the Apex Court held that a Medical Representative shall be a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947.

15. The aforesaid judgment passed by the Apex Court had also been considered by the Rajasthan High Court in Dolphin Laboratories Ltd. v. Judge, Labour Court, Udaipur and Another 2001-II-LLJ-559 (Raj.) and also by Punjab & Haryana High Court in Ripu Daman Bhanot v. Presiding Officer, Labour Court, Ludhiana and Ors. 1997-I-LLJ-557 (P&H). The aforesaid two High Courts have also dealt with the similar questions and relying upon the ratio of Sandoz's case (supra) held that Medical Representative is a workman for the purpose of Section 2(s) of the Industrial Disputes Act, 1947.

16. In view of the aforesaid law laid down by the two High Courts based upon the earlier judgment passed by the Apex Court in Sandoz's case (supra), this objection of the petitioner also cannot be accepted."

19. In the case of Novertis India Ltd Vs Vipin Shrivastava 2018 SCC Online MP

1931, a Division Bench held that in the German Remedies Limited's case (supra), has misread the judgment in H.R. Adyanthaya's case (supra) to hold that Medical Representatives are workmen within the meaning of Section 2(s) of the ID Act. In fact, three categories were created by the Supreme Court. In respect of the Medical Representatives engaged prior to enactment of SPE Act w.e.f. 06.03.1976, they were held not governed either by ID Act or SPE Act. In respect of employees whose services were terminated after 06.03.1976, the appeals were dismissed for the reason that it is not the case of the employees that their wages were less than Rs.750/- per month excluding commission, therefore, the SPE Act did not apply to them. The only dispute which was referred to Industrial Court under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1971 was in respect of transfer of the employees affected on 16.02.1988. The Supreme Court found that the definition of workman under ID Act will not cover the sales promotion employees within the meaning of SPE Act.

The Division Bench found that the judgment in the cases of German Remedies (supra) was not correct.

20. A Division Bench of Patna High Court in Deepak Kumar v. State of Bihar (2016) 149 FLR 528, held as under:-

"9. The Sales Promotion Employee as defined under the SPE Act as reproduced above includes any person by whatever name called (including an apprentice) employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both. The main provision is wide enough to include all categories of employees engaged for hire or reward to do any work relating to promotion of sale of business. The petitioner falls within such category. As admittedly, he was appointed as a person to promote sale of the pharmaceutical products, as is evident from Charge Sheet dated 13th December, 2002, which is to the effect that the appellant has failed to achieve the targets of sale of group of medicines. The notice (Annexure 2 to the writ petition) itself recites the appellant as a Medical Representative. Therefore, he is a Sales Promotion Employee. But there is exclusion clause of Sales Promotion Employees and not all Sales Promotion Employees are the employees within the meaning of Section 2(d) of the SPE Act.

21. In the case of Petcare Division of Tetragon Chemie Pvt. Ltd. vs. M.P. Medical and Sales Representatives Association and another (W.A.No.922 of 2006) decided on 21.12.2022, the Division Bench categorically held that 'Medical Representative' does not fall under the definition of "workman" as defined under Section 2(s) of the 4 Industrial Disputes Act, 1947. The relevant extract is as under:-

"18. The Constitution Bench of the Hon'ble Supreme Court in H.R. Adyanthaya's (supra) has categorically held that the Medical Representatives are not the workman; therefore, the complaint made to the Industrial Court is not

maintainable itself. The arguments raised by the appellant that even in the case of H.R. Adyanthaya's (supra), the benefits were extended and they were treated to be the complainant in the matter and the State Government was given directions but the fact remains that the powers were exercised under Article 142 of the Constitution of India by the Hon'ble Supreme Court. But the law which has been settled in the aforesaid case by the Constitution Bench is clear that the Medical Representatives or the Sales Promotion Officer do not fall under the definition of workman. The learned Single Judge has followed the aforesaid judgment passed by the Hon'ble Supreme Court and has rightly set aside the order passed by the Labour Court. Under these circumstances, we do not have any hesitation to observe that no illegality is committed by the writ court in allowing the writ petition. In absence of any cogent material or a judgment to override the observations made by the writ court and the law settled by the Constitution Bench of the Hon'ble Supreme Court in H.R. Adyanthaya's (supra), no relief can be extended to the appellant."

22. Thus, it was held that the Medical Representative/Sales Promotion Officer is not a workman in view of the decision of the Division Bench of this Court passed in Writ Appeal No.75/2017 parties being [Novartis India Limited Vs. Vipin Shrivastava & others], therefore, any dispute relating to a 'Medical Representative/Sales Promotion Officer' cannot be entertained by the Labour Court as they do not come within the definition of 'workman' under Section-2(s) of the Act.

23. In (2015) 7 SCC 263 parties being [Chauharya Tripathi & others Vs. Life Insurance Corporation of India & others] in which, the Apex Court had held that the Development Officer of the Life Insurance Corporation does not fall within the definition of workman. He further submits that the Apex Court has placed reliance on a case reported in 1994 (5) SCC 737 parties being [H.R. Adyanthaya Vs. Sandoz (India) Ltd.] and therefore, the order passed by the Division Bench in the case of Novartis India Limited (supra) also placing reliance in the case of Adyanthaya (supra) has held that the Medical Representative does not fall within the definition of workman.

24. Against the view taken by the co-ordinate bench in the case of Petcare (supra) that the Medical Representative or the Sales Promotion Employee do not fall under the definition of Workman under section 2(S) of ID Act, an SLP No.15250/2023 was preferred. The said SLP was dismissed by order dated 10.07.2023.

25. In view of the aforesaid discussion and law, it is held that the Medical Representative/Sales Promotion Officer do not fall within the definition of a Workman.

26. In the present case, the pleading in para 01 of his statement of claim of the appellant is important, which is quoted as under:-

27. In view of the said pleading, fact, record and judgment of the courts, we do

not find any illegality in the order passed by the learned Single Judge.

28. The appeal is dismissed.

No order as to costs.