

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10820 OF 2016
(Maharashtra State Electricity Transmission Co.Ltd., and others Vs.
Sohail Ali Qurban Ali Saiyed)

Mr.S.B.Adwant with Ms.Neha Kamble, Advocate for the petitioners.
Mr.S.R.Patil, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 26/10/2016

PER COURT :

1. The petitioner is aggrieved by the impugned judgment and order dated 09/08/2016 by which the Industrial Court, Jalgaon has allowed Complaint (ULP) No.27/2008 filed by the respondent.
2. Learned Advocate for the petitioners submits that a very short issue is raised in this petition. Issue is as regards appointment on compassionate basis. A specific scheme is applicable to the petitioners. The respondent has already been listed in the list of eligible candidates for appointment on compassionate basis strictly as per the scheme. In this backdrop, there was no reason for the Industrial Court to declare ULP against the petitioners because it is not proved before the Industrial Court that the petitioners have bypassed the claim of the respondent or has jumped the wait list and has appointed persons who are below the respondent in the wait list.
3. Mr.Patil, learned Advocate for the respondent submits that two

things have to be considered. Firstly, that the petitioners cannot bypass the respondent, who has been entered in the eligible candidates waiting list. Secondly, if any post to which the respondent is eligible as per his qualifications on compassionate basis, they have to consider these candidates.

4. Learned Advocate for the petitioners submits that neither have the petitioners bypassed the respondent and appointed any person junior to him, nor do they intend to ignore him whenever and wherever he will be eligible for the appointment on compassionate basis.

5. The Industrial Court has observed in the operative part of the impugned judgment as under :-

“(1) The complaint is partly allowed.

(2) It is hereby declared that the respondents have committed unfair labour practice under Items 5 and 9 of Schedule IV of the MRTU and PULP Act, 1971.

(3) The respondents are directed to cease and desist from such unfair labour practice in future.

*(4) The respondents are directed to follow the procedure prescribed in the Scheme for appointment of employees on compassionate ground added by **C.S.No.28, dt.16th April, 1975** in APPENDIX-'G' and shall provide employment to the complainant on any post in Class-IV category of employee as per the qualification of the complainant.*

(5) The respondents shall complete the above exercise within two months from today.

(6) No orders as to costs.”

6. Considering the above, this petition is disposed of by being partly allowed and the declaration of ULP under clause 2 and 3 is set aside. The direction in clause 4 and 5 is modified to the extent that the petitioners shall follow the procedure prescribed in the scheme for appointment of employees on compassionate grounds by taking into account circular C.S.No.28 dated 16/04/1995 with modifications subsequent thereto, if any, and shall ensure that the claim of the respondent is neither bypassed nor ignored nor overruled or frustrated.

7. Needless to state, in the event, in future, the respondent believes that his claim has been ignored or overruled for any reason whatsoever despite the directions of this Court, he would be at liberty to raise an appropriate grievance.

(RAVINDRA V. GHUGE, J.)