

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.96 OF 2017
(Kishor Sharad Damale Vs.Maharashtra State Electricity Distribution
Company Ltd.,)

Mr.V.S.Bedre h/f Mr.P.S.Pawar, Advocate for the petitioner.
Mr.A.S.Bajaj, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/01/2017

PER COURT :

1. This matter was heard on 16/01/2017. On noticing that the petitioner had challenged his proposed termination before the Industrial Court, I had pointed out the view taken by the Hon'ble Supreme Court in the matter of Hindustan Lever V/s Ashok Vishnu Kate, [(1995) 6 SCC 326] by which the Hon'ble Apex Court concluded that proposed termination / dismissal / removal from service can be challenged by an employee under Item 1 of Schedule IV of the MRTU and PULP Act, 1971 before the Labour Court. It was ruled that the Labour Court can entertain such a complaint prior to the actual issuance of the order of termination at the penultimate stage.

2. The petitioner is before this Court challenging the order dated 23/12/2016 passed by the Industrial Court, Aurangabad by which

the application for interim relief against the proposed termination was rejected.

3. Learned Advocate for the respondent /company has placed on record a compilation of documents indicating that the petitioner has already been terminated from service by order dated 04/01/2017. The copy of the order was tried to be served on the respondent and a panchnama has been prepared. The said documents (5) are connectively marked as Exhibit "X" for identification.

4. Learned Advocate for the petitioner submits on instructions that in the light of Exhibit "X" and Hindustan Lever case (supra), Complaint (ULP) No.33/2016 filed before the Industrial Court could be withdrawn by the petitioner and he would prefer to raise a comprehensive challenge before a Labour Court by filing a Complaint (ULP) under Item 1 of Schedule IV.

5. In the light of the above, this petition is disposed of by granting liberty to the petitioner to withdraw Complaint (ULP) No.33/2016 from the Industrial Court, Aurangabad within 1 (one) week from today and file his complaint before the Labour Court under Item 1 of Schedule IV within limitation. Needless to state, the impugned

order, therefore, does not survive and the Labour Court shall decide the ULP complaint filed by the petitioner on its own merits without being influenced by the withdrawal of the ULP complaint from the Industrial Court.

(RAVINDRA V. GHUGE, J.)