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| Received on   | 06/01/2023     |
| Registered on | 06/01/2023     |
| Decided on    | 26/05/2026     |
| Duration      | Y    M    D    |
|               | 03    04    20 |

**Exh.O : 2****IN THE LABOUR COURT-1 AT AURANGABAD.**

(Presiding Officer D. S. Khedekar)

**Complaint ULP No. 1 of 2023**  
**(CNR No. MHLC20000010-2023)**

**Rahul S/o Abhiman Kute,**  
 Age : 35 years, Occu. Service,  
 R/o Vanjarwadi, Tq & Dist. Beed.

**...Complainant**

VERSUS

**The Executive Engineer,**  
**(Competent Authority)**  
**Maharashtra State Electricity Distribution**  
**Company Ltd. (O & M Division)**  
 Divisional Office, Jalna Road,  
 Tq. & Dist. Beed.

**...Respondent**

**Claim:**      The complaint of Unfair Labour Practices U/s. 28 R/W Item  
 No.01 (a,b,d) & (f) Schedule IV of the MRTU & PULP Act,  
 1971

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**Advocates:** Shri. R. T. Biradar Ld. Advocate for Complainant  
 Shri A. B. Chate Ld. Advocate for the Respondent

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**JUDGMENT**  
**(Delivered on Dt. 26/05/2026)**

The complaint is filed by the complainant under Section 28 (1) r/w Item 1 (a), (b), (c), (d), (f) & (g) of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act 1971 (In short, MRTU and PULP Act 1971), for declaration of unfair labour practice by issuing termination from service and suspension period treated as punishment dtd. 20/12/2022 to the complainant on 02/01/2023 and it be directed to reinstate the complainant in service with continuity of service and back wages.

**The brief facts of the complainants case may be summarised as follows :**

2] The complainant was appointed by respondent by following due procedure of recruitment as Junior Technician on 08/08/2011 and posted at Pune Zone. The complainant after completion of his satisfactory work was confirmed on his post of Junior Technician. Thereafter, after satisfactory work the respondent promoted to the complainant on the post of Senior Technician. Thereafter in the year 2017 the respondent transferred to the complainant from Pune Zone to Latur Zone and posted at Beed Division, Patoda Division No. 2. Till this date the service record of the complainant is unblemished and blotless and satisfactory.

3] It is contended that on false allegation of misconducts the suspension order was issued to the complainant on 16/02/2022. Thereafter the complainant received vague and false charge-sheet dtd. 08/07/2002 from the respondent under service Rules 86(3) sub-rule 9, 11, 12, 13 and 23 of Sch. KH. And leveled five charges against him. In the said charge-sheet the charges of misconducts of indiscipline arrogant behaviour with superior, disobey the order of superior,

negligence etc. therefore, it is necessary to disciplinary action under service rules. As per enquiry procedure and service rules of respondent department, the respondent has been produced documents and adduced oral evidence by supplying documents and giving an opportunity to the complainant to cross-examination of their witnesses.

4] It is contended that the complainant has denied the charges leveled against him and explained the true and real facts with request to supply the documents produced in the enquiry and examined the witnesses by giving him permission to cross-examination of witnesses, who have author of said documents, but in the enquiry, the respondent has not supplied documents to the complainant nor examined the witnesses on behalf of them for proving the documents produced in enquiry with written submission. The enquiry officer wrongly held that all five charges are proved against the complainant.

5] The complainant has claimed to declare that respondents have engaged and engaging in unfair labour practice under Item 1 (a), (b), (c), (d), (f) & (g) of Schedule IV of the MRTU and PULP Act 1971 by issuing show cause notice of termination and suspension period treating as punishment dated 20/12/2022 to the complainant on 02/01/2023 on the basis of defective enquiry. The complainant has claimed to quash and set aside the show cause notice of termination from service and suspension period treated as punishment dated 20/01/2022 as illegal, improper, unjust, legally untenable and bad in law and continue the services of complainant with continuity of service with full back wages along with consequential and monetary benefits arising out of such direction.

6] The respondent has filed its written statement at Exh. C-5 and contended that the complainant while working as Senior Technician at Patoda, Section-2 has committed misconducts/irregularities narrated in suspension order dtd. 16/02/2022 and charge-sheet dtd. 08/07/2022. The above act of the complainant is serious misconducts as per clause No. (3), (9), (11), (12), (13) and 23 of Sch. Kh of the MSEDCL Employees Service Regulation No. 86(3) applicable to the complainant, therefore, the respondent has issued charge-sheet dtd. 08/07/2022 to the complainant and called explanation. The reply submitted by complainant is not satisfied and the charges leveled against the complainant is serious, therefore, the enquiry is conducted against the complainant.

7] It is contended that the enquiry officer has assessed the documentary evidence adduced by both the parties and hold that all charges leveled against the complainant are proved. By considering the proved serious misconducts and past service record, the competent authority i.e. the respondent has come to the conclusion that the complainant is liable to be dismissed from service and accordingly the respondent has issued show-cause notice of dismissal dtd. 20/12/2022 to the complainant with enquiry facts findings report and called explanation within seven days from the receipt of notice by giving fair opportunity of hearing. Hence, the respondent has not committed unfair labour practice as alleged and therefore, in view of serious misconduct committed by the complainant the complaint is liable to be dismissed with costs.

8] On the basis of statement of both parties following issues were framed at **Exh. O-1** and I have recorded my findings thereon with reasons as follows :

| <u>No</u> | <u>ISSUES</u>                                                                                                                                                                                                          | <u>FINDINGS</u>                                                                  |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| (1)       | Whether enquiry conducted by the enquiry officer against complainant is fair and proper ?                                                                                                                              | <b>Already decided as per order below Exh.O-1 dtd.04/10/2025 in the negative</b> |
| (2)       | Whether the complainant proves that the findings recorded by enquiry officer are illegal, improper, unjust, perverse and legally not tenable ?                                                                         | <b>Already decided as per order below Exh.O-1 dtd.04/10/2025 in the negative</b> |
| (3)       | Whether the complainant proves that the notice of termination from service of complainant and suspension period treated as punishment dtd. 20/01/2022 is illegal, improper, unjust, perverse and legally not tenable ? | <b>In affirmatively</b>                                                          |
| (4)       | Whether the complainant proves that the respondents are engaged in unfair labour practice Item No. (a), (b), (c), (d), (f) and (g) of Sch. IV of MRTU & PULP Act, 1971 ?                                               | <b>In affirmatively</b>                                                          |
| (5)       | Whether the respondent proves charges against complainant before Court ?                                                                                                                                               | <b>In negatively</b>                                                             |
| (6)       | Whether the respondent proves that the punishment is proper and proportionate ?                                                                                                                                        | <b>In negatively</b>                                                             |
| (7)       | Whether the complainant is entitled for relief of declaration as prayed ?                                                                                                                                              | <b>In affirmatively</b>                                                          |
| (8)       | Whether the complainant is entitled for                                                                                                                                                                                | <b>In affirmatively</b>                                                          |

|      |                                                                                                                                       |                            |
|------|---------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|      | setting aside and quashing the termination of service of complainant and suspension treated as punishment dtd. 20/12/2022 as prayed ? |                            |
| (9)  | Whether the complainant is entitled for continuity of service as claimed ?                                                            | <b>In affirmatively</b>    |
| (10) | What order ?                                                                                                                          | <b>As per final order.</b> |

### **REASONS**

9] The complainant has led evidence on affidavit vide **Exh. U-18**. The complainant filed evidence closed pursis at **Exh. U-19**. The complainant has tendered documents at **Exh. U-5** i.e. copy of suspension order dtd. 16/02/2022, copy of charge-sheet dtd. 08/07/2022, copy of reply dtd. 11/07/2022, copy of enquiry proceedings dtd. 12/11/2022, copy of show-cause notice of termination with enquiry report dtd. 20/12/2022. The complainant has tendered documents at **Exh. U-12** i.e. copy of circular dtd. 04/09/2015, copy of circular dtd. 06/08/1994.

10] The respondent failed to lead evidence on remaining issues, therefore evidence of respondent is closed by order dated 12/03/2026 below Exh.U-1.

11] The complainant has relied on citations at **Exh. U-13, Exh.U-17 & Exh.U-20** as follows :

1] Transport Commissioner V/s A. Radha krishna Moorthy, SC JT1994(7) SC 744,

2] Kuldeep Sing V/s The Commissioner of Police, SC dtd. 17/12/1998.

**3] Chief Engineer Latur Zone V/s Nathuram Wamanrao Mundhe,  
Writ Petition No. 11616/2018 dtd. 20/02/2020.**

12] I have heard learned Advocate for Complainant and respondent.

**AS TO ISSUE NOs. 1 TO 10 :**

13] The complainant has challenged show cause notice of termination from service by order dated 20/12/2022 issued by respondent and suspension period treated as punishment dated 20/12/2022. The respondent had appeared and filed written statement and on the basis of statement of both parties issues were framed at Exh.O-1 and out of that issue No.1 & 2 were treated as preliminary issues. The parties had advanced arguments and on the basis of enquiry papers and documents, preliminary issue No.1 & 2 were decided by order dated 04/10/2025 vide Exh.O-1 by holding that the enquiry conducted by enquiry officer against the complainant is not fair and proper and the findings recorded by enquiry officer are illegal, improper, unjust, perverse and legally not tenable.

14] The complaint was proceeded on the remaining issues against the respondent and the complainant has lead evidence by filing affidavit at Exh.U-18 and testified the averments of the complaint. The complainant has denied the charges levelled against him and stated that the allegations of misconduct are not committed and he is not direct or indirect in connection with the allegations of chargesheet and therefore, show cause notice of termination of service and punishment

dated 20/12/2022 is illegal. The respondent has cross-examined to the complainant and during cross-examination no material admission is brought on record to prove the charges levelled against the complainant. The complainant has denied the allegations of respondent through chargesheet and denied that he had committed misconduct as per the chargesheet. The complainant has denied that the punishment proposed by the respondent is legal and valid.

15] In view of statement of complainant and considering the order passed on preliminary issue, the respondent was supposed to lead evidence on the remaining issues to prove charges against complainant before the Court and prove the punishment as proper and proportionate on the basis of the charges levelled against the complainant. However, the respondent did not lead evidence and no supporting material on record to prove the charges. The charges levelled against the complainant are not proved before the Court. The respondent has issued show cause notice of termination of service and suspension treated as punishment dated 20/12/2022 without cogent proof of misconduct against the complainant and imposed disproportionate punishment and therefore, punishment dtd. 20/12/2022 cannot be held just and proper.

16] The evidence of the complainant and the order of preliminary issue shows that the enquiry conducted by enquiry officer is not fair and proper and findings are perverse. The respondent did not prove charges before the Court hence, the termination of notice and punishment proposed by dtd. 20/12/2022 by respondent on the basis of defective enquiry and on the perverse findings of enquiry officer

become illegal, improper, untenable and bad in law. The respondent has issued termination order and proposed punishment without following due procedure and against the principles of natural justice and issued order of punishment by exercising unfair labour practice against the complainant as complained in the complaint. Hence, the order of termination of service and punishment by dtd. 20/12/2022 is illegal, improper and required to be quashed and set aside.

17] In view of statement of complainant and the evidence on record, the complainant has proved that the respondent has engaged in unfair labour practice by issuing show cause notice of termination from service and suspension period treating as punishment dated 20/12/2022 to the complainant on 02/01/2023 on the basis of defective enquiry and perverse findings and the punishment imposed by respondent become illegal, improper and liable to be quashed and set aside and resultantly the complainant is entitled to continue in service with continuity of service and monetary benefits as per law and complaint deserves to be allowed as prayed. For the aforesaid reasons I answer issue Nos.1 & 2 in the negative as per order dated 04/10/2025 on Exh.O-1 and issue No.3 & 4 affirmatively, issue No.5 & 6 negatively and issue Nos. 7 to 9 affirmatively. Consequently, as against the issue No.10, I proceed to pass following order;

| <b><u>ORDER</u></b> |                                                                                                                                 |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------|
| 1.                  | The complaint is allowed with cost.                                                                                             |
| 2.                  | It is declared that respondents have engaged and is engaging in the prescribed unfair labour practice prescribed in Item 1 (a), |

|    |                                                                                                                                                                                                                                                                                                                                                                                                              |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | (b), (c), (d), (f) & (g) of Schedule IV of the MRTU and PULP Act 1971 by issuing show cause notice of termination from service and suspension period treated as punishment dtd. 20/12/2022 to the complainant on 02/01/2023 on the basis of defective enquiry and report with perverse findings of enquiry officer and the respondents are directed to cease to engage into the said unfair labour practice. |
| 3. | It is declared that show cause notice of termination from service and suspension period treated as punishment dtd. 20/12/2022 and findings of enquiry officer are illegal, improper, unjust, legally untenable and bad in law and they are instances of unfair labour practice under Item 1 (a), (b), (c), (d), (f) & (g) of Schedule IV of the MRTU and PULP Act 1971 and they are quashed and set aside.   |
| 4. | The respondent is directed to continue the services of complainant.                                                                                                                                                                                                                                                                                                                                          |

**(Dictated and pronounced in open court)**

**(D. S. Khedekar)**

Judge,

Labour Court No. 1, Aurangabad

Place; Aurangabad

Date : 26/05/2026