

**IN THE HIGH COURT OF SINDH AT KARACHI**

Present:

Mr. Justice Muhammad Faisal Kamal Alam

Mr. Justice Jawad Akbar Sarwana.

**C. P. No. D – 279 of 2018**

Petitioner:	Jawaid Akhtar s/o Abdul Rahim through Mr. Syed Anayat Hussain Bukhari, Advocate.
v.	
Respondent No.1:	Sindh Labour Appellate Tribunal at Karachi. Nemo.
Respondent No.2:	The Chief Executive Officer Hyderabad Electric Supply Corporation (“HESCO”), and
Respondent No.3:	Project Director Construction (Orp.) HESCO, Hyderabad, through Mr. Usman Tufail Shaikh
Respondent No.4:	Sindh Labour Court No.IV, Hyderabad
Date of hearing:	07.04.2025.
Date of Announcement:	20.06.2025

**J U D G M E N T**

**JAWAD AKBAR SARWANA, J.:** The Petitioner/Jawaid Akhtar, was employed in the LS-II Construction Sub-Division-I of the Hyderabad Electricity Supply Company/Respondent Nos.2 and 3 (“HESCO”), a distinct and separate limited liability entity incorporated under the provisions of the Companies Ordinance, 1984, having its own Board of Directors and no statutory rules of service.<sup>1</sup> The petitioner is aggrieved by the Sindh Labour Appellate Tribunal at Karachi (“SLAT”)(Respondent No.1) Judgment dated 20.09.2017 passed in two appeals, one filed by HESCO and another appeal filed by him, wherein:

- (i) SLAT allowed HESCO’s appeal against the Order dated 19.12.2011 passed by the Sindh Labour Court No.IV, Hyderabad, (“SLC”)(Respondent No.4), setting

aside the reinstatement of the petitioner with HESCO, and,

- (ii) SLAT rejected the petitioner's partial appeal to SLC's Order dated 19.12.2011, which rejected the petitioner's claim for back benefits.

The petitioner contends that the two decisions by the two Forums below are "without authority" and of "no legal effect". Hence, he has invoked the writ jurisdiction of the constitutional High Court under Article 199(1)(a)(ii) of the Constitution of the Islamic Republic of Pakistan ("the 1973 Constitution").<sup>2</sup>

2. A brief background to this dispute is that the petitioner was issued a show cause notice with a statement of allegations, which he denied in his reply dated 29.04.2006. The petitioner was charge-sheeted and, apparently without conducting a regular enquiry and giving him the opportunity for a personal hearing, was imposed a major penalty of compulsory retirement under the Removal from Service (Special Powers) Ordinance, 2000 ("RSO"), as per the Office Order dated 18.07.2007. This Order was held in abeyance by another Order dated 21.07.2007, which was subsequently withdrawn by yet another Order dated 19.09.2007. The petitioner filed a departmental appeal on 10.10.2007 against both Orders dated 18.07.2007 and 19.09.2007, which was rejected vide Order dated 15.03.2008. Thereafter, the petitioner submitted a Grievance Notice dated 27.03.2008 to HESCO, which the employer did not consider. On 05.06.2008, the petitioner impugned the Order dated 18.07.2007 by filing a Grievance Application No. 36/2008 under Section 46(3) of the Industrial Relations Ordinance ("IRO"), 2002, against HESCO before the SLC. The petitioner prayed to the SLC for the setting aside of

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<sup>1</sup> According to information available online on SECP's website, HESCO was incorporated on 23.04.1998.

<sup>2</sup> CP No.D01590/2023, Attock Cement Pakistan and Others v. Federation of Pakistan and Others, Division Bench Judgment dated 02.12.2024 (Justice Shafi Siddiqui and Justice Jawad Sarwana) 2024 SHC KHI 763.

HESCO's RSO Order dated 18.07.2007 and his reinstatement with back benefits in HESCO, which was partially allowed by the SLC to the extent of his reinstatement, but his claim for back benefits was rejected. Accordingly, the petitioner challenged the SLC's Order dated 19.12.2011 concerning his claim for back benefits, whereas HESCO challenged SLC's Order in its entirety before SLAT. Ultimately, as mentioned above, SLAT allowed HESCO's appeal and rejected the petitioner's partial appeal. Hence, this petition.

3. The petitioner's counsel argued that the petitioner was deprived of a domestic enquiry and wrongfully terminated. He contended that SLC ought to have reinstated the petitioner with full back benefits, and SLAT's Judgment dated 20.09.2017 is liable to be set aside. Meanwhile, the Counsel for HESCO submitted that SLC had no jurisdiction to hear the matter, and the appeal allowed by SLAT should be upheld. Both Counsel for the Respondents and the learned DAG have opted to argue on the legal aspect of this lis, only.

4. Heard Counsel and perused documents available on record.

5. At the outset, it is worth noting the timeline of events. First it is important to keep in mind that HESCO's Order dated 18.07.2007 imposing major penalty of compulsory retirement under the RSO, 2000, upon the petitioner and HESCO's departmental appeal order dated 15.03.2008, were announced after 27.06.2006, that is, after the date of announcement of judgment of the nine-member bench of the Supreme Court of Pakistan in Muhammad Mubeen us Salam and others v. the Federation of Pakistan (PLD 2006 SC 602)("Mubeen us Salam").<sup>3</sup> Thus, at all times, the parties were well

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<sup>3</sup> In Paragraph 109 of the Mubeen us Salam case, the Apex Court held as follows:

"Now the question is as to what would be the effect of this judgment on the cases pending before this Court and Federal Service Tribunal. In this behalf it may be noted that following the rule of past and closed transactions, laid down in the case of Mehram Ali v. Federation of Pakistan (PLD 1998 SC 1445), it is directed as follows:--

aware of the implications of the Mubeen us Salam judgment and the Supreme Court of Pakistan's judgment in Muhammad Idrees v. Agricultural Development Bank of Pakistan (PLD 2007 SC 681), which followed the said Mubeen us Salam case. Secondly, as we take up this case in 2025, the law in force at the time of the dispute was the Industrial Relations Ordinance ("IRO"), 2002,<sup>4</sup> which was repealed on 15.12.2008 by the Industrial Relations ("IRA") Act, 2008. Hence, when the petitioner was aggrieved by the Orders passed by HESCO under the RSO, 2000, he triggered the provisions of labour law under the IRO, 2002. Thirdly, the RSO, 2000, was repealed by the Government of Sindh on 08.08.2017 viz., the Sindh Removal from Service (Special Powers) Act, 2017 (Sindh Act No.XXVII of 2017)("RSO (Repeal) Act, 2017"), meaning thereby that when SLAT heard the two appeals on 28.08.2017 and 08.09.2017 and, thereafter also when it announced its Judgment on 20.09.2017, the RSO, 2000, had already been repealed subject to the saving clause of RSO (Repeal) Act, 2017. Fourth and finally, SLAT was bound by the judgments of the Supreme Court of Pakistan at the material time, specifically, the five-members Apex

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(a) The cases which have been decided finally by this Court in exercise of jurisdiction under Article 212(3) of the Constitution shall not be opened and if any Review Petition, Misc. Application or Contempt Application, filed against the judgment is pending, it shall be heard independently and shall not be affected by the ratio of this judgment.

(b) The proceedings instituted either by an employee or by the an employer, pending before this Court, against the judgment of the Service Tribunal, not covered by category (a) before this Court or the Service Tribunal shall stand abated, leaving the parties to avail remedy prevailing prior to promulgation of section 2-A of the STA, 1973.

(c) The cases or proceedings which are not protected or covered by this judgment shall be deemed to have abated and the aggrieved person may approach the competent forums for redressal of their grievances within a period of 90 days and the bar of limitation provided by the respective laws, shall not operate against them till the expiry of stipulated period.

(d) The cases in which the order of Service Tribunal has been implemented shall remain intact for a period of 90 days or till the filing of appropriate proceedings, whichever is earlier.

(e) The Service Tribunal shall decide pending cases under section 2-A of the STA, 1973 in view of the above observations. However, if any of the cases is covered by clause `c' (ibid), a period of 90 days shall be allowed to aggrieved party to approach the competent forum for the redressal of its grievance.

<sup>4</sup> XCI of 2002

Court's judgment in Pakistan Defence Officers' Housing Authority and others v. Lt. Col. Syed Jawaid Ahmed, etc. 2013 SCMR 1707 ("PDOHA").

6. The above facts are crucial as they provide the context of the petitioner's election to pursue his remedy against the respondent employer, HESCO, before the SLC under the labour laws of Pakistan. This is relevant because SLAT came to the conclusion in the impugned Judgment dated 20.09.2017 that SLC had no jurisdiction to hear the petitioner's grievance petition. SLAT opined as follows in the impugned Judgment dated 20.09.2017:

"...After judgment of the Hon'ble Supreme Court of Pakistan in Muhammad Mubeen us Salam's case (PLD 2006 SC 602), persons in employment of government controlled corporations etc. cannot avail remedy of appeal before the service tribunal. The question regarding remedy available to such persons was considered by a bench of five judges of the Hon'ble Supreme Court in the case of Pakistan Defence Officers' Housing Authority <sup>[5]</sup>, in which it was held that they having no other remedy could avail remedy before the High Court in constitutional petition.

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12. In view of the above, it is clear that the action taken against the employee under the RSO was not challengeable before the labour Court and his grievance application was not maintainable. Accordingly, the appeal of the employer is allowed, the impugned order is set aside and the employee's grievance application before the labour court is dismissed as not maintainable. However, the employee may seek remedy before proper forum if advised."

Thus, according to SLAT, when the RSO, 2000, was in force, based on SLAT's interpretation of the Judgment of the Supreme Court in Pakistan in the "PDOHA"<sup>6</sup> case, the petitioner should have elected to invoke the writ jurisdiction of the High Court, but he did not do so. Instead, the petitioner triggered the Labour Courts to adjudicate his grievance against HESCO.

7. SLAT relied in its impugned Judgment on the 2013 interpretation of the PDOHA read in the light of the Mubeen us

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<sup>5</sup> Pakistan Defence Officers' Housing Authority and others v. Lt. Col. Syed Jawaid Ahmed, etc. 2013 SCMR 1707 ("PDOHA")

Salam case and the RSO, 2000. Although SLAT does not expressly identify in its impugned judgment the precise paragraphs of the PDOHA case upon which it relied, it is most likely it considered paragraphs 49, 50, 51 and 60 of the PDOHA case. These paragraphs are reproduced herein below:

#### Paragraph 49

“49. While affirming the afore-mentioned judgment of the High Court of Sindh, this Court considered the effect of the Ordinance 2000 qua the jurisdiction of the High Court under Article 199 of the Constitution for the first time in Civil Aviation Authority through Director-General v. Javed Ahmad (2009 SCMR 956). The Court observed as under:-- "The learned High Court was fully empowered to consider whether the action complained of is in accordance with the Removal from Service (Special Powers) Ordinance, 2000. Therefore, the violation of law falls within the parameters of the constitutional jurisdiction and the petition was properly entertainable regarding punishment of compulsory retirement to Javed Ahmed. The right of individual by change of law cannot be closed as past transaction and the constitutional petition. remains alive to agitate the rights guaranteed under the Constitution. The departmental action on the statement of allegations contained 23 allegations which include additional allegations, was passed on malice and pre-determined desire to get rid of Javed Ahmed. After abatement of his service appeal, there was no remedy available under the law in view of Mubeen-us-Salam's case and the petition before the High Court was maintainable". ”

#### Paragraph 50

“50. The principles of law which can be deduced from the foregoing survey of the precedent caselaw can be summarized as under:--

- (i) Violation of Service Rules or Regulations framed by the Statutory bodies under the powers derived from Statutes in absence of any adequate or efficacious remedy can be enforced through writ jurisdiction.
- (ii) Where conditions of service of employees of a statutory body are not regulated by Rules/Regulations framed under the Statute but only Rules or Instructions issued for its internal use, any violation thereof cannot normally be enforced through writ jurisdiction and they would be governed by the principle of 'Master and Servant'.
- (iii) In all the public employments created by the Statutory bodies and governed by the Statutory Rules/Regulations and unless those appointments are purely contractual, the principles of natural justice cannot be dispensed with in disciplinary proceedings.

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<sup>6</sup> Ibid / Supra, 2013 SCMR 1707

(iv) Where the action of a statutory authority in a service matter is in disregard of the procedural requirements and is violative of the principles of natural justice, it can be interfered with in writ jurisdiction.

(v) That the Removal from Service (Special Powers) Ordinance, 2000 has an overriding effect and after its promulgation (27th of May, 2000), all the disciplinary proceedings which had been initiated under the said Ordinance and any order passed or action taken in disregard to the said law would be amenable to writ jurisdiction of the High Court under Article 199 of the Constitution."

#### Paragraph 51

"51. . . .As discussed in para 49 above, the effect of deprivation of right to appeal granted under section 10 of the Ordinance, 2000 with reference to remedy under Article 199 of the Constitution was considered for the first time in Civil Aviation Authority v. Javed Ahmad supra. In the said case, the facts were that an employee of Civil Aviation Authority was proceeded against under the Ordinance 2000 and awarded major penalty of compulsory retirement. He filed appeal before the Service Tribunal which was directed to have abated by order of the Service Tribunal on account of the judgment of this Court in Mubeen-us-Salam's case (PLD 2006 SC 602). He along with several employees similarly placed challenged the order of departmental authorities before the High Court of Sindh. The petitions were allowed only on question of jurisdiction by a Full Bench of which one of us (Sarmad Jalal Osmany, J.) was a member and it was held that those petitions under Article 199 of the Constitution were competent and were directed to be listed before appropriate Benches of High Court of Sindh for hearing on merit [Muhammad Dawood and others Supra (2007 PLC (C.S.) 1046)]. The Court allowed those petitions in terms as referred to in para 48 above. The said judgment was upheld in Civil Aviation Authority supra (2009 SCMR 956)."

#### Paragraph 60

"60. It was not disputed before this Court by appellants learned counsel that the respondent employees were "persons in corporation service" within the meaning of section 2(c) of the Ordinance 2000 and except in the case of N.E.D. University, they were proceeded against under the said law. This was a 'statutory intervention and the employees had to be dealt with under the said law. Their disciplinary matters were being regulated by something higher than statutory rules i.e. the law i.e. Ordinance, 2000. Their right of appeal (under section 10) had been held to be ultra vires of the Constitution by this Court as they did not fall within the ambit of the Civil Servants Act, 1973, [(in Mubeen us Salam's case (PLD 2006 SC 602) and Muhammad Idrees's case (PLD 2007 SC 681)]. They could in these circumstances invoke constitutional jurisdiction under Article 199 of the Constitution to seek enforcement of their right guaranteed under Article 4 of the Constitution which inter alia mandates that every citizen shall be dealt with in accordance with law. The judgment of this Court in Civil Aviation Authority (2009 SCMR 956)<sup>7</sup> supra is more in

<sup>7</sup> The High Court of Sindh held that if an employee is proceeded under the Ordinance, 2000, the High Court is competent to consider as to whether the action

consonance with the law laid down by this Court and the principles deduced therefrom as given in Para 50 above.”

(underlining added)

8. Based on the reading of the two reported Judgments of the Supreme Court, that is, the Mubeen us Salam case and the PDOHA case, read in light of the RSO, 2000, prior to the repeal of RSO, 2000, the Supreme Court observed that the RSO, 2000, was on a higher [statutory] pedestal, and, the right of appeal was not available to “non-statutory employees”, with the RSO, 2000, expressly overriding all other laws,<sup>8</sup> In these circumstances, the Supreme Court set-out that when due process was not followed or there was any diversion from fair deal/trial on the part of the Authority under the RSO, 2000, then as per the text underlined by us in paragraphs 49, 50(v), 51 and 60 reproduced above, the recourse/remedy available to the “non-statutory employees” was to invoke the writ jurisdiction of the High Court.<sup>9</sup> Interestingly, the Supreme Court did not articulate whether labour laws were also available as an option for “non-statutory employees” aggrieved by orders passed under the RSO, 2000. Indeed, in the PDOHA case, the Apex Court neither discussed remedies before the civil Court nor distinguished between workers/workmen (non-management employees) and management employees (officers) engaged by State-Owned Enterprises (“SOE”). At the time, these two distinguishable classes of employees in SOEs were addressed/labelled under the single umbrella/category of “non-statutory employees”.

9. The above position of law, as it stood up to August 2017, changed after the RSO, 2000 cases began to thin out in the court docket. In a later three-member judgment of the Supreme Court,

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taken was in accordance with law or not. A Division Bench of the High Court having decided the question of jurisdiction directed the Constitution petitions to be listed before the appropriate benches

<sup>8</sup> Paragraph 60 of 2013 SCMR 1707

<sup>9</sup> In Paragraph 60 of 2013 SCMR 1707, the Supreme Court also approvingly cites another earlier judgment of the Supreme Court, that is, Civil Aviation Authority v. Javed Ahmed (2009 SCMR 956), to be more in consonance with the law laid down in the Pakistan Defence Officers’ Housing Authority case.



namely, President, Zarai Taraqati Bank Ltd. Head Office Islamabad v. Kishwar Khan and Others, 2022, SCMR 1598 (“ZTB”), which is applicable prospectively, the Apex Court cross-references all the above-mentioned judgments of the Supreme Court, implying that in the case of a SOE, its non-statutory service rules employees have recourse to the civil courts. Paragraph 6 of the ZTB judgment reads as follows:

“6. The dictum laid down by this Court in the case of Tanweer-ur Rehman (PLD 2010 SC 676) made it amply visible that due to non-statutory service rules and in case of no other equally efficacious and adequate remedy, the aggrieved employee can only file a civil suit for redressal of his grievance. All the more so, this Court in the case of PIAC v. Syed Suleman Alam Rizvi, reported as 2015 SCMR 1545, while referring to the dictum laid down in the case of Tanweer-ur -Rehman, (PLD 2010 SC 676), Abdul Wahab and others v. HBL and others (2013 SCMR 1383), Pakistan Defence Officers' Housing Authority and others v. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707) and Syed Nazir Gilani v. Pakistan Red Crescent Society and another (2014 SCMR 982) reaffirmed that in the relationship of master and servant, the only course left to the employees is to file a suit for redress of their grievances (underlining added).”

10. In the post-RSO, 2000 era and in non-RSO cases, the Supreme Court of Pakistan's most recent pronouncement on the above subject is articulated in The General Manager, Punjab Provincial Cooperative Bank Ltd. and Others v. Ghulam Mustafa and Others, 2024 SCMR 1458 (“Ghulam Mustafa”). Paragraph 20 of the Judgment in the Ghulam Mustafa case states the several matrices of options available to the different classes of employees to challenge adversarial or departmental actions, including dismissal and termination of service, as follows:

“20. Now we want to advert to the forms of remedies available to the different class or classes of employees to challenge adversarial or departmental actions including dismissal and termination of service in the different laws of our country. A civil servant, if found aggrieved of any adverse action, obviously, can approach the Service Tribunal after filing departmental appeal/representation according to the relevant Civil Servant and Service Tribunal Acts. In tandem, if the employee is not a civil servant but is covered and regulated under the statutory rules of service, then of course, he may file a constitution petition in the High Court under Article 199 of the Constitution and challenge the violation of service rules or any other departmental action adverse to his interest. In juxtaposition, an employee of

industrial and commercial establishment, if he is a worker/workman, he may approach the concerned labour courts and/or the National Industrial Relations Commission (NIRC) under the relevant Industrial Relation Laws, but the category of employees who are excluded from the purview and definition of worker or workman cannot approach the labour courts or the NIRC, and in case of any injustice, inequality, discrimination or any adverse action against any such employee who is neither covered under the definition of civil servants, nor is regarded as worker or workman, and nor his employment is covered or regulated by statutory rules of service, has the only remedy to approach the civil court and file a civil suit in terms of Section 9 of the Code of Civil Procedure, 1908, for seeking relief, under the relationship of master and servant. However, it is also a ground reality that under the rigors and exactitudes of lengthy and intricate procedures, several years are consumed till an ultimate decision of the civil suit is reached.”

11. Based on the Ghulam Mustafa case, the following remedial options are now available to employees:

Category	Employee Type	Forum Available	Applicable law
A.	Civil servant (as per section 2(1)(b) of the Civil Servants Act, 1973	Services Tribunal	Services Tribunal Act, 1973
B.	An employee who is not a civil servant but is regulated under statutory rules	Constitutional Petition before a High Court	Article 199 of the 1973 Constitution
C.	Worker/workman of an establishment covered by the applicable Industrial Relations laws	National Industrial Relations Commission / Labour Court	Relevant labour law(s)
D.	Any other employee (Master and Servant relationship)	Civil Court	Section 9 of the Civil Procedure Code, 1908

12. Indeed, the above view is/was also followed by a Division Bench of this High Court in the case of Dalan Khan Shar v. Federation of Pakistan and Others, 2024 PLC (C.S.) 1213, and this bench is also bound by the said judgment being earlier in time.

13. Yet, the position of law today in 2025 was not the legal position in 2017. The petition before us pertains to a case involving the alleged breach of procedure of RSO, 2000, in an era when the RSO, 2000 was still in force, albeit by way of the saving

clause applicable to RSO cases embedded in the RSO (Repeal) Act, 2017. Sections 2(2) and 2(3) of the RSO (Repeal) Act, 2017, mandate that all proceedings pending under the repealed RSO before the commencement of the Act of 2017 against any person, whether in government service or corporation service, shall continue under the repealed RSO. Therefore, we find that SLAT's approach in August 2017 to decide the case under the RSO, 2000 under the applicable law in force, is/was consistent with the interpretation of the Judgments of the Supreme Court of Pakistan, including the Apex Court's judgments on the RSO, 2000, which were binding on SLAT at the time and the above provisions of the RSO (Repeal Act), 2017. As such, SLAT correctly applied the RSO, 2000, along with its relevant reported judgments up to the year 2017, to both HESCO's and the petitioner's appeals pending before it under the repealed RSO, 2000. Accordingly, in light of the cases of Mubeen us Salam and PDOHA, we are also inclined to accept SLAT's conclusion in its impugned Judgment dated 20.09.2017 that the petitioner's recourse to the Labour Court was impliedly barred under the RSO, 2000, that allowing HESCO's appeal and dismissing the petitioner's partial appeal was correct as well as find that SLAT's observation that ". . .the employee [petitioner] may seek remedy before proper forum, if advised," was proper.

14. While, on the one hand, we find that the Labour Court had no jurisdiction to adjudicate the petitioner's grievance, on the other hand, in the opinion of this bench, the employee petitioner's original grievance, which is against the Authority/HESCO's RSO Order dated 18.07.2007, is now before us in writ jurisdiction, that is, the "proper forum", as per the law in force in August 2017. The petitioner, who ought to have filed his grievance against the RSO, 2000, before the High Court several years ago, instead pursued his remedy before the Labour Court, unnecessarily consuming time in the wrong forum. He has finally reached the proverbial doorstep of the High Court.

15. The High Court in the exercise of its jurisdiction under Article 199 of the Constitution can pass an appropriate order "declaring that any act done or proceeding taken within the territorial jurisdiction of the Court by a person performing functions in connection with the affairs of the Federation, a Province or a local authority has been done or taken without lawful authority and is of no legal effect." Thus, we proceed to examine the Authority/HESCO's RSO Order dated 18.07.2007, in the context of Article 199(1)(a)(ii) of the 1973 Constitution. The legislative intent in the promulgation of RSO, 2000, inter alia, was that "persons in corporation service" in their service matters should be dealt with in accordance with the provisions of the said law and to ensure a fair deal/trial. It was, inter alia, provided in the RSO, 2000, that unless specifically exempted by a reasoned order, the competent authority shall hold a regular enquiry against an employee accused of misconduct and that they shall have a right of appeal (Section 10 of the Ordinance). However, in the facts and circumstances of the case, such appeal was not available to non-statutory employees, like the petitioner, who, therefore, had to invoke Article 199 of the Constitution to seek due compliance with the RSO, 2000, for ensuring fair deal/trial and due process, but, in the present case, the petitioner did not do so and instead, in the present case, elected to pursue his remedy in the wrong forum.

16. Undisputedly, it has come on record that the petitioner was removed from service by way of imposition of major penalty of compulsory retirement from service of the Respondent/HESCO without following the due process, that is, the procedure mentioned in the RSO, 2000. Precisely, the RSO Order dated 18.07.2007, by HESCO, was passed after more than a year after the Show Cause Notice. The competent authority, after receiving the defence reply, did not pass any separate order for the dispensation of a regular enquiry, as required under the provisions of the RSO, 2000. As such, the RSO Order passed by HESCO without a regular enquiry

into the allegations was not sustainable. This Court cannot ignore the apparent violation of RSO, 2000, as articulated by the SLC in its impugned Order, so also evidenced from the present record and admitted during oral arguments. The Respondents opted to defend this lis on legal grounds only.

17. Given the above, applying the principles laid down by the five-member bench of the Supreme Court in the PDOHA case, the judgments of SLAT dated 20.09.2017 in the two appeals for reasons discussed hereinabove are correct, and consequently, SLC's Order dated 19.12.2011 cannot be sustained either. However, when this Court considers the petitioner's challenge to the Authority/HESCO's RSO Order dated 18.07.2007 in terms of the PDOHA judgment and Article 199(1)(a)(ii) of the 1973 Constitution, the RSO Order, made without a regular enquiry into the allegations, is held by this bench to be not sustainable. Furthermore, it would be a futile exercise to send the case back to the Authority/HESCO after almost eighteen years of the RSO Order. Therefore, for the reasons discussed above, as the Authority/HESCO's RSO Order dated 18.07.2007 cannot be sustained, the petitioner is hereby reinstated to the position he was holding, with effect from the date of the RSO Order dated 18.07.2007, but without back benefits as this Court is not inclined to go into a factual enquiry based on record in writ jurisdiction.

18. The petition is allowed in the above terms.

JUDGE

JUDGE

Announced by us on 20.06.2025:

JUDGE

JUDGE