

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1231 of 2021

[Sattar Bux Soomro and 02 others v. Federation of Pakistan and others]

Before:

Justice Arbab Ali Hakro

Justice Muhammad Osman Ali Hadi

Petitioners by : Mr. Shabir Ahmed Bozdar, Advocate

Respondents by : Mr. Nisar Ahmed G. Abro, Deputy Attorney General along with Mr. Abdul Mujeeb Shaikh, Advocate

Date of Hearing : **03.09.2026 & 08.09.2026**

Date of Announcement : **07.10.2026**

ORDER

ARBAB ALI HAKRO, J. – By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioners, three officers who were serving, at the material time, in the Sukkur Electric Power Company Limited (“**SEPCO**”), assail the withholding of the Dislocation Allowance said to flow from the Compensation Package circulated by the Pakistan Electric Power Company (“**PEPCO**”) on 07.02.2018¹ and from clause (v) of the PEPCO Transfer/ Posting Policy for Officers dated 30.07.2019,² and seek its release to them at par with a colleague in whose favour it stands allowed.

2. The prayer clause, which delimits the controversy, is reproduced verbatim as follows:

- a) *That, this Honorable Court may be pleased to declare the act of respondents regarding discriminating treatment with the petitioners by not allowing the Dislocation Allowance and other benefits etc. as per letters Annexure “D, H and I”, as illegal, unlawful, against the Constitutional of Islamic Republic of*

¹ Letter No.2068-93/GM(HR) dated 07.02.2018, addressed by the General Manager (HR), PEPCO to the Chief Executive Officers of all Distribution Companies (Annexure “D” to the petition; Annexure “A” to the respondents’ statement of documents).

² PEPCO Office Order No.8263-82/MD/PEPCO/GM(HR)/DCMP dated 30.07.2019 (Annexure “H” to the petition).

Pakistan, 1973, hence the said act may be declared as null and void.

- b) That, this Honorable Court may be pleased to direct the respondents to allow dislocation allowance and other benefits to the petitioners as allowed by respondents to one employee / colleague, the then CEO on his transfer to SEPCO as per Annexure "D, H and I".*
- c) That, this Hon'able Court may be pleased to restrain the official respondents from taking any coercive action against the petitioners regarding filing the instant petition before this Hon'able Court and its decision as well.*
- d) That, to grant any other relief which this Honorable Court deem fit and proper under the circumstances of the case.*
- e) That, to award the costs of the petition.*

3. The facts, stripped of detail and drawn from the memorandum of petition, are that Petitioner No.1 entered the service of the Pakistan Water and Power Development Authority ("**WAPDA**") as Labour & Welfare Officer in BPS-16 by order of appointment dated 08.12.1990. Upon unbundling of the Power Wing, he served in the Hyderabad Electric Supply Company Limited ("**HESCO**"). He was thereafter transferred from HESCO, Hyderabad, and posted as Deputy Manager (Legal & Labour) in the office of the Chief Executive Officer, SEPCO, Sukkur, "against a vacant post in the interest of work". The services of Petitioner No.2, then borne on the strength of the Lakhra Power Generation Company Limited ("**GENCO-IV**"), were placed at the disposal of the Chief Executive Officer, SEPCO, likewise "in the interest of work", for further adjustment against a vacant post of Deputy Manager (Admn). Petitioner No.3 was offered a contract appointment by HESCO as Manager Finance (Corporate Planning & Control) in BPS-18 by letter dated 07.07.2007 and was moved to SEPCO in the year 2012.

4. On 07.02.2018, the General Manager (HR), PEPCO, addressed a letter to the Chief Executive Officers of all Distribution Companies on the subject "Compensation Package for Officers Posted on Promotion out of Parent Companies". Paragraph 2 recited that "since the officers get dislocated from their current place of posting, they are required to be compensated accordingly" and went on to state that "following compensatory

measures are proposed to be got approved from respective BODs of DISCOs”, the first of which was “a dislocation allowance for every officer posted on promotion out of his parent Company equivalent to one month’s basic pay per month”. Paragraph 3 added that “this proposal may also be considered for inclusion in the Transfer/ Posting Policy for all future postings on promotion out of the parent companies”.

5. Thereafter, pursuant to a decision taken at its 73rd meeting on 13.07.2019, the Board of Directors of PEPCO conveyed, by Office Order dated 30.07.2019, the PEPCO Transfer/Posting Policy for Officers, superseding all previous PEPCO policies on the subject. Clause (v) thereof, upon which the petitioners principally rely, reads as follows:

“All officers who will be posted out of their parent / present Companies, on promotion or transfer in the interest of work will be entitled to Dislocation Allowance.”

6. That Office Order was placed before the Board of Directors of SEPCO at its 43rd meeting, held on 06.09.2019, and the Board recorded its decision on Agenda-6 in the following terms:

“Board approved the agenda and adopted the PEPCO Office Order No. 8263-82 / MD / PEPCO / GM(HR) / DCMP, dated 30.07.2019, in SEPCO w.e.f date of its issuance (30.07.2019).”

7. The grievance is that although the petitioners applied for the benefit, petitioner No.1 by representation dated 06.07.2018 to the Chairman, Board of Directors, SEPCO; petitioner No.2 by submission dated 09.07.2018 to the DG/HR & Admn. Director, SEPCO; and petitioner No.3 by request dated 09.07.2018 to the Chairman, Board of Directors, nothing was done in their cases, whereas the very same benefit was released to the then Chief Executive Officer of the Company on the recommendation of the 12th HR Committee meeting held on 27.06.2019, in these words:

Allowing dislocation compensation package to Mr. Saeed Ahmed Dawach, General Manager / CEO SEPCO with effect from 27.07.2018 on account of transfer from HESCO in the interest of

Company then promotion in SEPCO". This will not be quoted as precedent.

8. It is on the strength of that resolution and the revised salary slip of the said officer, reflecting a Dislocation Allowance of Rs.163,800/- with effect from 27.07.2018, that the petitioners came to this Court on 04.08.2021, complaining of hostile discrimination and invoking Articles 4, 25 and 27 of the Constitution.

9. Respondents Nos. 3 and 4 controverted the petition by way of preliminary objections and para-wise comments. In the report, they traced the corporate history, the decision of the Federal Government in the year 1998 to unbundle the Power Wing of WAPDA, the incorporation in that year of several generation, transmission and distribution companies, the bifurcation of HESCO in 2010, and the resultant incorporation of SEPCO on 23.11.2010 under the Companies Ordinance, 1984, as a company limited by shares, and its registration with the National Electric Power Regulatory Authority under a distribution licence. It was asserted that SEPCO is a "public sector company" within the meaning of the Public Sector Companies (Corporate Governance) Rules, 2013; that its service rules and policies are non-statutory; and that the relationship between the Company and its employees is that of master and servant.

10. By way of preliminary objections, it was urged, first, that the petition is not maintainable in light of the Supreme Court's pronouncements in **Tanweer-ur-Rehman**³ and **Iqbal Nasir**⁴ and secondly, that the entitlement asserted turns on an examination of documents which cannot be undertaken in the exercise of constitutional jurisdiction. On the merits, the respondents pleaded that the Compensation Package was introduced by PEPCO on 07.02.2018, but the petitioners have produced no material to show that they were posted out of their parent Companies to SEPCO under the PEPCO

³ *Pakistan International Airline Corporation v Tanweer-ur-Rehman* PLD 2010 SC 676.

⁴ *Pakistan Telecommunication Co. Ltd. through Chairman v Iqbal Nasir* PLD 2011 SC 132.

Transfer/Posting Policy of 30.07.2019, or that the admissibility of the Compensation Package was a condition of their respective transfer/posting orders; that the Dislocation Allowance under paragraph 1(i) of the Office Order dated 30.07.2019 was confined to the engineering cadre, that is to say to Executive Engineers, Superintending Engineers, Chief Engineers and General Managers, whereas the petitioners are not engineering cadre employees; and that the appropriate forum for employees of corporate companies governed by non-statutory rules is the civil court. It was also placed on record that petitioner No.1 retired on attaining the age of superannuation with effect from 22.07.2024; that petitioner No.2 was transferred from SEPCO to HESCO, Hyderabad, in September, 2021, and is now serving there; and that petitioner No.3 is presently working as Chief Financial Officer on a lump-sum contract pay package.

11. In rejoinder, the petitioners denied the comments and joined issue on three fronts. They contended that SEPCO, being wholly owned and controlled by the Federal Government, is a “person” performing functions in connection with the affairs of the Federation and is therefore amenable to the jurisdiction of this Court; that what is sought is not the enforcement of an ordinary contractual term of service but redress against the discriminatory withholding of a benefit conferred by a uniformly applicable policy, a cause of action distinct in kind and attracting Articles 4, 25 and 27; and that the plea of an engineering-cadre limitation is belied by the plain language of clause (v), which speaks of “all officers”, and by PEPCO’s own construction of its policy. It was further urged that the availability of an alternate remedy is no absolute bar to relief under Article 199.⁵

12. Both sides supplemented the record. By a statement dated 03.09.2026, the petitioners filed the salary slips of Mr. Nasir Ali Khan, Manager (HR); Mrs. Pashmeena Shaikh, Manager (Admn); and Syed Ahmar

⁵ *I.A. Sherwani v Government of Pakistan* 1991 SCMR 1081; *Benazir Bhutto v Federation of Pakistan* PLD 1988 SC 416.

Ali, Director (Budget & Accounts), each showing Dislocation Allowance drawn in SEPCO; two clarificatory letters issued by PEPCO to QESCO and TESCO in the matters of Mr. Imdad Ali and Mr. Naeem Iqbal Siddiqui; and the WAPDA order of employment of petitioner No. 1. By a further statement dated 08.09.2026, they filed a list of authorities. For the respondents, an index of documents was filed comprising the PEPCO policy dated 07.02.2018; the PEPCO promotion orders dated 07.12.2020 in respect of Mr. Nasir Ali Khan and Syed Ahmar Ali, together with the corresponding relieving orders, arrival reports and SEPCO posting orders; the transfer orders of petitioners Nos. 1 and 2 and copies of Salahuddin⁶ and Tanweer-ur-Rehman⁷, besides two orders of the Circuit Court, Larkana.

13. Learned counsel for the petitioners argued that the entitlement of the petitioners rests entirely upon admitted documents and calls for no evidence; that clause (v) of the Office Order dated 30.07.2019, having been adopted by the Board of Directors of SEPCO, is binding upon the Company, which cannot approbate and reprobate by extending its benefit to some officers and denying it to others; that the words “on promotion or transfer in the interest of work” in clause (v) squarely cover the postings of petitioners Nos. 1 and 2, whose orders bear those very words; that PEPCO itself allowed the benefit to two non-engineering officers with effect from 07.02.2018, thereby demolishing the cadre-based defence; and that the release of the allowance to the then Chief Executive Officer, while withholding it from the petitioners, is discrimination writ large. Apart from the authorities noticed above, he relied upon a body of case law on equality in service benefits, besides three unreported decisions of this Court.

14. Learned Deputy Attorney General, assisted by Mr. Abdul Mujeeb Shaikh, learned counsel for respondents Nos. 3 and 4, resisted the petition. It was submitted that SEPCO is a company incorporated under the repealed

⁶ *Pakistan Electric Power Company v Syed Salahuddin and others* 2022 SCMR 991.

⁷ *Tanweer-ur-Rehman* (n.3 above).

Companies Ordinance, 1984; that it has no statutory service rules; that the mere borrowing of WAPDA's rules and orders for internal use does not clothe them with a statutory character; and that the controversy is therefore beyond the reach of Article 199. It was further submitted that the letter of 07.02.2018 was no more than a proposal awaiting the approval of the Board of each Company; that the Board of SEPCO adopted the policy only with effect from 30.07.2019; that the petitioners, having been posted to SEPCO in 2010, 2011 and 2012 and not on promotion, are outside its ambit and that the claim is in substance one for arrears of money, triable by a court of plenary jurisdiction.

15. We have heard the learned Deputy Attorney General and the learned counsel for the parties at length and, with their assistance, have scrutinized the record.

16. On the pleadings and the arguments addressed, the question that arises at the threshold and upon which the fate of the petition turns, is whether a claim to an allowance arising from a non-statutory policy of a public-sector company incorporated under the company law is enforceable in the constitutional jurisdiction of this Court under Article 199 of the Constitution.

17. The foundational facts are not in dispute and are, indeed, pleaded by the petitioners themselves. SEPCO is a company limited by shares, incorporated on 23.11.2010 under the Companies Ordinance, 1984; it holds a distribution licence from NEPRA and is a public sector company in terms of the Rules of 2013. It is nobody's case that SEPCO has framed, or that there exist, statutory rules regulating the terms and conditions of service of its employees. What the record does disclose is a SEPCO office order of the year 2008 notifying that the services of all employees working in the companies "will continue to be governed for all intents and purposes by the Rules & Orders in force in WAPDA" and that "this arrangement shall be valid

until such time companies notify their own Service Rules and Regulations”. That document, far from advancing the petitioners’ case, is the clearest indication that what governs is an internal administrative arrangement of the companies and not a statutory instrument.

18. The legal consequence of that state of affairs is no longer open to debate. In **Salahuddin**⁸, the Supreme Court dealt with the employees of a distribution company within this very group, namely the Quetta Electric Supply Company (**QESCO**), which had adopted the Pakistan WAPDA Employees (Efficiency and Discipline) Rules, 1978, for internal use. It was held that such adoption does not make those rules statutory in the context of QESCO; that, with no statutory rules governing the terms and conditions of service, the relationship between PEPCO and its employees is governed by the master-servant principle; and that such employees cannot invoke the constitutional jurisdiction of the High Court for the redressal of their grievances. The ratio applies to SEPCO with undiminished force, for SEPCO stands on precisely the same footing as QESCO. That pronouncement, being a decision of the Supreme Court on a question of law, binds this Court under Article 189 of the Constitution.

19. The proposition is not an isolated one. It rests upon a settled line of authority beginning with **Tanweer-ur-Rehman** and **Iqbal Nasir** and continuing through **Abdul Wahab**⁹, **Itrat Sajjad Khan**¹⁰ and **Saeed Ahmed Khoso**¹¹. In **Itrat Sajjad Khan**, it was laid down that where a service grievance is agitated before the High Court under Article 199 by an employee who is not governed by statutory rules of service, such a petition shall not be maintainable. In **Saeed Ahmed Khoso**, it was held that it is not necessary that a company registered under the company law, in which the Government holds shares,

⁸ *Salahuddin* (n.6 above)

⁹ *Abdul Wahab v HBL* 2013 SCMR 1383.

¹⁰ *Pakistan Defence Officers Housing Authority v Mrs. Itrat Sajjad Khan* 2017 SCMR 2010.

¹¹ *Sui Southern Gas Company Limited v Saeed Ahmed Khoso* 2022 SCMR 1256.

be treated at par with statutory corporations for the purpose of determining the maintainability of a petition filed by its employee.

20. This Court has consistently applied the same rule to the successor companies of the WAPDA Power Wing. In **Dalan Khan Shar**¹², a petition by an employee of HESCO, the very company from which SEPCO was carved out, was dismissed *in limine* on this ground. Other High Courts have taken the same view in respect of PESCO, IESCO and PEPCO itself.

21. Learned counsel for the petitioners sought to meet this formidable body of precedent by two arguments, and it is right that both be addressed.

22. The first point is that SEPCO, being wholly owned by the Federal Government and engaged in the distribution of electricity, is a “person” performing functions in connection with the affairs of the Federation and is thus amenable to the jurisdiction conferred by Article 199. So much may be readily conceded; the authorities cited for the petitioners are authority for that limited proposition. But the concession takes the petitioners nowhere, because it answers a question that is not in issue. The distinction, too often blurred in argument, is between the amenability of the body and the justiciability of the right asserted. That an entity may, in a given case, be proceeded against under Article 199 does not convert every claim laid at its door into a claim enforceable in that jurisdiction. In **Tanweer-ur-Rehman, Iqbal Nasir, Itrat Sajjad Khan** and **Salahuddin**, the organisations concerned were all amenable to Article 199, yet relief was nonetheless refused, precisely because the right asserted rested on rules that were non-statutory. The relevant enquiry is not who the respondent is, but whence the right springs.

23. The second argument is the more substantial: that what is complained of is not a breach of a term of service but discrimination in the application of

¹² *Dalan Khan Shar v Federation of Pakistan* 2024 PLC (C.S.) 1213.

a uniform policy, and that a grievance so framed engages Articles 4, 25 and 27 and stands on a different footing altogether. The argument has an attractive ring, but it does not survive examination. Precisely this contention was considered and repelled in **Abdul Wahab**¹³, where it was enunciated that in cases where employment is regulated not by any law but by non-statutory rules or contractual stipulations, and no forum is designated for the resolution of service issues, the infringement of a condition of such a contract shall at most entitle the employee to avail his ordinary remedy for breach of contract before the court of plenary jurisdiction, and that in such a situation it could not be urged that the fundamental rights of the employee had been violated so as to confer upon him a right to enforce the same in terms of Article 199 of the Constitution. Their Lordships went on to hold, on the facts of that case, that the employees had furnished no particulars of persons equally placed with them who had been retained, and that Article 25 did not help their cause.

24. The reason underlying that rule is not merely technical. If the bare invocation of Article 25 were enough to unlock the constitutional jurisdiction, the rule settled by the Supreme Court would be reduced to an empty formality, for there is scarcely a service grievance which cannot be recast in the language of unequal treatment: an employee denied promotion, an increment, an allowance or a posting can always point to another who has received it. A jurisdictional bar that can be circumvented by the manner of pleading is no bar at all. The exception recognized by the authorities is, therefore, a narrow and principled one. It operates where there is statutory intervention which the employer is bound to obey, as in **Jawaid Ahmed**¹⁴, where the Removal from Service (Special Powers) Ordinance, 2000 held the field and the employees had been deprived of the right of appeal conferred by section 10 thereof, or where the rule invoked against the employee is itself

¹³ *Abdul Wahab* (n.9 above).

¹⁴ *Pakistan Defence Officers' Housing Authority v Lt. Col. Syed Jawaid Ahmed* 2013 SCMR 1707.

found to be *ultra vires* the Constitution and the law, as it was in **Itrat Sajjad Khan** in relation to Rule 8(b)(1) of the Service Rules there under consideration. Neither situation obtains here. No statute is said to have been contravened, no rule is under challenge, and no order of dismissal, removal or reduction has been passed against anyone. What is asked for is money, under a policy of the Company's own making.

25. It is instructive that **Jawaid Ahmed** and **Itrat Sajjad Khan**, on which learned counsel placed considerable reliance, in fact restate the general rule against him. **Jawaid Ahmed** holds that where the conditions of service of employees of a statutory body are not regulated by rules framed under the statute but only by rules or instructions issued for internal use, any violation thereof cannot normally be enforced through the constitutional jurisdiction, and the parties are governed by the principle of master and servant. **Itrat Sajjad Khan** is to the same effect and adds that the test of whether rules are statutory is not whether their framing required the approval of the Federal Government, but the nature and area of their efficacy, with rules dealing with instructions for internal control or management being non-statutory. The office order of 08.01.2008, noticed in paragraph 17 above, falls, on that test, on the non-statutory side of the line.

26. The remaining authorities cited for the petitioners are, with respect, of no assistance. **Sherwani and Benazir Bhutto**¹⁵ establish that the availability of an alternative remedy is not an absolute bar to the exercise of jurisdiction under Article 199, a proposition that is unexceptionable but beside the point, for the objection here is not the existence of another remedy but the absence of a public-law right. **Nusrat Nawaz**¹⁶ concerned the non-payment of salary to a daily-wage employee for work actually performed over a period of years and turned upon the right to livelihood and human dignity. Wages earned for labour rendered and an allowance claimed under a company policy are not

¹⁵ *I.A. Sherwani and Benazir Bhutto* (n.5 above).

¹⁶ *Nusrat Nawaz v Office of Advocate General for ICT, Islamabad* 2026 PLC (C.S.) 445.

the same thing, and the one furnishes no analogy for the other. The case of **Abdul Majeed**¹⁷ arose from the regularization of a differently abled person under a dedicated statutory regime and against a statutory authority. **Dr. Munir Ahmad**¹⁸ was a case of civil servants whose Science and Technology Allowance had been stopped by the Accountant-General, and the High Court entertained it because the order was not appealable before the Service Tribunal, a consideration wholly absent here. The unreported decisions of this Court¹⁹ relied upon do not carry the matter further either: they concerned employees of the Federal Investigation Agency and of the Pakistan Civil Aviation Authority, both statutory bodies, and none of them a claim of the present description.

27. There is a further and independent reason why the constitutional jurisdiction ought not to be exercised. Article 199 requires, as a condition of the grant of relief, that there be no other adequate remedy provided by law. The petitioners' claim, when reduced to its essentials, is a money claim founded on a policy said to have been adopted by the Company. Such a claim can be agitated, upon pleadings and evidence, by a suit before the court of plenary jurisdiction, which alone can receive proof of the terms of the instruments, of the parent-company status of each petitioner following the bifurcation of HESCO, of the contents of petitioner No.3's lump-sum package, and of the quantification of the sums claimed. That is the remedy to which **Abdul Wahab** and **Salahuddin** point, and it is an adequate one.

28. For these reasons, the question so formulated must be answered in the negative. The petition, as framed, is not maintainable.

29. That conclusion is decisive of the petition. Having held that the claim cannot be entertained under Article 199 of the Constitution, we refrain from

¹⁷ *Chairman, NADRA, NADRA Headquarter, Islamabad v Abdul Majeed* 2025 SCMR 612.

¹⁸ *Dr. Munir Ahmad v Government of Pakistan, Finance Division, Islamabad* 2007 PLC (C.S.) 285.

¹⁹ C.P. No. D-354 of 2025 (*Saifullah Jokhio v Federation of Pakistan*); C.P. No. D-636 of 2024 (*Muhammad Saqib Saghir v Federation of Pakistan*); C.P. No. D-1622 of 2025 (*Muhammad Suleman Ghouri v Federation of Pakistan*)

examining whether the petitioners fall within the Compensation Package dated 07.02.2018 or clause (v) of the Office Order dated 30.07.2019, the date from which that policy operates in SEPCO, the plea of discrimination founded upon the officers named by the petitioners, the defence that the allowance is confined to the engineering cadre, or the bearing upon the claim of the retirement, repatriation and contractual status of the petitioners. These are matters going to the substance of the claim, to be determined, in the first instance, under the applicable policy and, where necessary, upon pleadings and evidence before the competent forum. The respective contentions of the parties on all of them are left open. Prayer clause (c), being consequential, falls with the petition.

30. For the reasons recorded above, this petition is **dismissed** as not maintainable. The petitioners shall be at liberty to seek such remedy in respect of their claim as may be available to them in law before the competent forum. Nothing in this order shall be construed as an expression of opinion on the merits of the claim or of the defence.

31. There shall be no order as to costs.

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