

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitutional Petition No. D-1101 of 2024.
[Sibghatullah Bullo vs. Federation of Pakistan and others]

Before:-
Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider 'Ada'.

Petitioner : Sibghatullah Bullo,
through Mr. Khan Muhammad Sangi,
Advocate.

Respondents : Federation of Pakistan and others,
through Syed Naved Ahmed Shah,
Deputy Attorney General.

Mr. Abdul Mujeeb Shaikh Advocate
for Respondent-SEPCO.

Date of hearing : 12.03.2026

Date of Decision : 08.04.2026.

ORDER

ALI HAIDER 'ADA' J.— The case of the Petitioner is that his father, while serving as a Line Man-II with the Water and Power Development Authority (WAPDA), died during the course of his duties due to an electric shock. Subsequently, after the restructuring and distribution of functions among various distribution companies of WAPDA, the matter fell within the jurisdiction of the Hyderabad Electric Supply Company (HESCO). The petitioner was appointed as Helper by HESCO under the WAPDA Employees' Children Quota Policy (Policy) on a daily wage basis for a period of 89 days.

2. Later, the services of the petitioner were dispensed with on the ground that an FIR had been registered against him, and he remained confined in jail. However, the petitioner was subsequently acquitted in the said criminal case. Thereafter, he approached HESCO for reinstatement/appointment, but the authorities informed him that his uncle, namely Bakhshan Bullo (brother of the deceased employee), had already been appointed under the Policy on the basis of a No Objection Affidavit submitted by the widow of the deceased.

3. Feeling aggrieved, the petitioner approached the Wafaqi Mohtasib for redressal of his grievance, whereupon directions were issued to consider his case.

4. In 2010, the Sukkur Electric Power Company (SEPCO) was established as a distribution company, and the relevant matters were transferred to it. The petitioner then approached SEPCO; however, no final decision was made. Consequently, the petitioner filed a Constitutional petition before this Court, and this Court directed SEPCO to decide the petitioner's application within a period of two months.

5. In compliance with the said directions, the competent authority of SEPCO passed an order, communicated to the petitioner through the Manager HR, SEPCO, vide letter dated 22.07.2024, whereby his case was declined on the grounds that the job had already been granted to the brother of the deceased on the basis of a No Objection Affidavit submitted by the widow of the deceased, and that the petitioner had earlier been appointed on daily wages for 89 days but his services were not extended due to his confinement in jail. Hence, the petitioner has challenged the said letter and has prayed for his appointment in accordance with the relevant policy.

6. Learned counsel for the petitioner contended that the decision of the Wafaqi Mohtasib was never challenged by the respondents and, therefore, had attained finality. He further argued that the respondents failed to produce any documentary evidence or service record to establish that the brother of the deceased, i.e., the petitioner's paternal uncle, was in fact appointed under the Policy. It was also emphasized that the petitioner had been acquitted in the criminal case, but this material aspect was not considered by the respondents. Learned counsel, therefore, prayed that the petitioner be granted appointment under the Policy.

7. Conversely, learned counsel for SEPCO submitted that since the brother of the deceased employee had already been accommodated under the Policy, the petitioner was not entitled to any further relief. Learned Deputy Attorney General adopted the arguments advanced by the learned counsel for SEPCO.

8. Heard the learned counsel for the parties and perused the material available on record.

9. At the outset, it is necessary to address the legal issue as to whether the policy introduced by the respondents satisfies the criteria governing appointments under the deceased quota. In this regard, it is submitted that the policy in question has been duly framed and is intended to facilitate and extend benefits to the families of retired and deceased employees. For proper appreciation, the relevant policy is reproduced herein below:

PAKISTAN
WATER AND POWER DEVELOPMENT AUTHORITY
Services & General Administration

Telephone: 5202211/2332 332-Wapda House, Lahore
Telegram: WAPDA LAHORE
No. All(8.11.A)07781/PK/Chairman 1812-12461 Dated: 05 April, 2004

OFFICE ORDER

It has been decided by the Authority to revive 20% quota of the posts in BPS-1 to 9 in all categories for the children of WAPDA employees. Recruitment against the said quota will be made on contract basis as and when posts are available, in the following order of merit:

- a. *A child of employee who died due to electric shock or injury causing death while performing official duty.*
- b. *A child of employee who became disabled due to electric shock of injury-causing disability, while performing official duty.*
- c. *A child of employee who died or Incapacitated due to some other reasons during service.*
- d. *A child of deceased retired WAPDA employee.*
- c. *A child of retired employee.*
- f. *A child of employee in-service, whose child has not been recruited before under employee children quota (WAPDA employees who resigned fratit service after rendering 15 years or more service, shall also be allowed to avail employees children quota under this category.*

2. Recruitment against employees children quota will be made after observing all formalities of recruitment Policy/instructions contained in O.M.No. DG (S&GA) / AD (E.II.B)07685 / Policy-III / 46425-47424 dated 25.11.2000, against those vacant posts (BIPS-1 to 9) on which there is no ban e.g. posts fallen vacant due to retirement of an employee in DISCOS or against those BPS 1-9 vacant posts for which any office has obtained relaxation of bus from the Authority.

3. Qualification/standard for recruitment i.e. age, educational, technical and physical, shall under no circumstances, be relaxed in respect of children of WAPDA employees. Trade test will be held for BPS-5 to 9 category posts where applicable. The merit of the candidates who qualify the test is to be determined independently according to priorities mentioned in par-1 and/laid down in O.MNo. DG (S&CA) / D (Rules) / 07453 / 30 / 111/55906-57206 dated 19.11.2003.

4. The instructions issued vide Office Order No: AD(E.II.B)/ 07683/of Policy/35290-480 dated 30.7.03 regarding appointment of widow/brother of the deceased/wife of disabled employee, in an electric shock or injury causing death/disability while performing official duty will continue to be regulated as such.

5. Appointments against Sr.No.1(a,b) and 4 above, will be made on regular basis, (being cases of death disability due to electric shock or: injury causing death/disability while performing official duties).

6. WAPDA employees removed/dismissed/terminated shall not be treated as WAPDA employees for this purpose and their children shall not be entitled for appointment, against the quota reserved for the children of WARDA employees.

(Muhammad Akhtar Choudhry)

Director General (S&GA).

10. That, upon perusal of the aforesaid policy, it becomes manifestly clear that appointments made thereunder are strictly regulated. With regard to the first issue, it is an admitted position that the brother of the deceased, namely Bakshan Bullo, was allegedly appointed under the said policy. However, the policy clearly provides that only the children of the deceased employee are eligible for such appointment, and no other relative, including a brother, can be considered, even if a no-objection certificate is furnished by the widow. The policy, being domain in nature, cannot be altered or relaxed for the benefit of any individual. It is well recognized that decisions of an authority are meant to supplement,

and not to contradict or conflict with, the governing rules and prescribed policy. Any direction or instruction issued by the authority cannot abridge, override, or run counter to the provisions of the applicable rules or policy framework. Support is drawn from the case of **MUHAMMAD NADEEM ARIF and others Versus INSPECTOR-GENERAL OF POLICE, PUNJAB, LAHROE and others 2010 PLC(C.S.)924, [Supreme Court of Pakistan]**.

11. In this context, the stance taken by the SEPCO respondents, that the brother of the deceased was appointed under the policy is wholly contrary to the express provisions of their own policy. Furthermore, despite directions from this Honourable Court, the SEPCO-Respondents failed to produce the relevant service record or appointment order demonstrating that the said Bakshan Bullo was appointed under the policy in question. On the other hand, the petitioner has raised serious objections to the respondents' claim, asserting that the said individual was appointed on a merit basis through an independent application process, and not under the deceased quota policy. The respondents, instead of producing cogent evidence such as service records, have merely placed on record inter-departmental correspondence, which is insufficient to substantiate their claim. In view of the preceding, the plea advanced by the respondents is misconceived, unsupported by evidence, and thus liable to be discarded.

12. That the petitioner was initially appointed on a daily wages basis vide order dated 07.11.2000. However, his services were dispensed with vide office order dated 23.12.2000 on the mere registration of an FIR against him. The record further reflects that the petitioner was subsequently convicted by the learned trial court on 20.08.2002; however, he was later acquitted by this Honourable Court in Criminal Appeal No. D-101 of 2002, vide judgment dated 07.10.2006. It is evident from the record that the service of the petitioner was not terminated on account of any conviction, but rather solely on the basis of the registration of a criminal case.

Notably, no departmental inquiry was conducted, nor was any codal formalities observed prior to dispensing with his services. The petitioner was, therefore, deprived of his employment without due process of law, rendering the impugned action arbitrary and unlawful. In this regard, reliance is placed upon the case of **Inspector-General of Police, Punjab v. Tariq Mahmood, 2015 P L C (C.S.) 366** wherein a Full Bench of the Honourable Supreme Court of Pakistan held that where an employee is acquitted in a criminal case, he is entitled not only to reinstatement but also to consequential benefits, including back benefits. The apex Court categorically ruled in favour of granting such relief, thereby reinforcing the principle that mere involvement in a criminal case, particularly where it end in acquittal, cannot be made a basis for denial of service rights.

13. It is a well-settled principle of law that the mere registration of a criminal case against an employee does not *ipso facto* render him guilty of the alleged offence. During the pendency of criminal proceedings, the competent authority did not initiate departmental proceedings; however, any adverse action must be taken strictly in accordance with law and after fulfilling the requisite procedural safeguards.

14. A simpliciter termination of service, on the ground of loss of trust and confidence, without affording the employee an opportunity of being heard, is illegal and of no legal effect. It is incumbent upon the authority to issue a show-cause notice, call for an explanation, and, where necessary, conduct a regular inquiry into the allegations before imposing any major penalty.

15. It is further settled that the penalty of dismissal from service, being a major penalty, cannot be imposed without conducting a proper inquiry and providing the employee a fair opportunity of defence. Any action taken in violation of these mandatory requirements amounts to a breach of the principles of natural justice and is liable to be set aside. Support in this regard is drawn from the

authoritative pronouncements of the Honourable Supreme Court of Pakistan in **Habib Bank Limited v. Ghulam Mustafa Khairati, 2008 SCMR 1516**, **Civil Aviation Authority v. Javed Ahmad, 2009 SCMR 956** and **Malik Muhammad Ramzan v. Commissioner Sargodha Division, 2025 SCMR 1924**, wherein it has consistently been held that termination or dismissal of an employee without due process, is unlawful and cannot be sustained.

16. Moreover, in the present case, another significant issue emerges from the record that the father of the petitioner died while in service. The petitioner, being a child of the deceased, was considered for appointment against the post of Helper. It is an admitted position that the father of the petitioner was a regular employee; therefore, the petitioner's appointment on a daily wages basis, purportedly under the relevant policy, is wholly alien to the governing scheme of law relating to compassionate appointments. Once the petitioner was considered and appointed against the post of his deceased father, he could not lawfully be treated as a daily wager or contractual employee. Consequently, all subsequent actions taken against the petitioner, treating him as a daily wages/contract employee, lose their legal efficacy and cannot be sustained in the eyes of law. In this regard, consideration is drawn from the case of **Ali Ahmad v. Executive District Education Officer, Sialkot, 2014 PLC(C.S.) 793**.

17. The scope of authority vested in a statutory functionary is well defined. Where legislation confers wide-ranging powers, it is to be presumed that such powers shall be exercised, firstly, in good faith; secondly, for the advancement of the object and purpose of the legislation; and thirdly, in a reasonable and judicious manner. Where the authorities fail to regulate the exercise of their discretion through the framing of rules, policy statements, or established precedents, it becomes incumbent upon the Courts to intervene so as to maintain the necessary balance in the exercise of statutory powers and to prevent arbitrariness. Guidance in this regard is drawn from

the case of **Muhammad Amin Muhammad Bashir Limited v. Government of Pakistan, 2015 SCMR 630.**

18. In view of the foregoing discussion and reasons, the impugned letter dated 22.07.2024, issued by the SEPCO-Respondents, whereby the petitioner's application seeking appointment was declined, is hereby declared illegal and of no legal effect. Consequently, the SEPCO-Respondents are directed to reconsider the case of the petitioner strictly in accordance with the applicable policy governing employment under the WAPDA Employees' Children Quota. Accordingly, this petition stands disposed of in the above terms.

JUDGE

JUDGE