HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-1765 of 2014
[Abdul Haleem vs. WAPDA and others]

Before:
JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	Through Mrs. Razia Ali Zaman, Advocate
Respondents:	Through Mr. Muhammad Arshad Pathan Advocate
Date of hearing	12.11.2026
Date of Decision	12.11.2026

O R D E R

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ADNAN-UL-KARIM MEMON, J. - The petitioner has filed the instant Constitutional Petition under Article 199 of the Constitution, seeking induction/ promotion to BPS-17 as Junior Engineer (Electrical) from the date his similarly placed colleagues were promoted, along with correction of his promotion date, seniority and consequential benefits.

2. Learned counsel for the petitioner contends that the petitioner was appointed as Line Superintendent on 30.11.1989 despite holding a B.E. (Electrical) degree from Mehran University of Engineering and Technology, Jamshoro, on the assurance that he would be inducted as Junior Engineer after completion of three years' service. He claims that despite fulfilling the requisite conditions, his induction was unjustifiably delayed, whereas other Graduate Engineers, including his juniors, were promoted. She relies upon the Cabinet Division Memorandum dated 17.05.1971, Establishment Division Office Order dated 09.03.1972, and the decision of the Standing Committee on Water and Power dated 09.06.1993, whereby induction of Graduate Engineers working against technical subordinate posts as Junior Engineers was directed to be completed by 30.06.1996. She further relies upon the judgment dated 17.11.2003 passed by the Federal Service Tribunal in Appeals No.1627(K)/1998, 1937(K)/1998 and 216(K)/1998, whereby the appeals were allowed and the respondents were directed to consider the appellants for promotion from the dates their juniors had been promoted. He maintains that despite the said judgment, his case was not considered, although similarly placed employees were extended the benefit. It is further contended that this Court, in C.P. No.D-2842/2011, decided on 11.10.2012, directed implementation of the Federal Service Tribunal's judgment and consideration of the petitioners' cases within three months. Subsequently, similar benefits were extended to employees of HESCO and SEPCO, including certain employees who were not parties to the earlier proceedings. The petitioner claims that his representation dated 04.03.2014, seeking similar treatment, has not been decided. She asserts that the petitioner is entitled to correction

of his date of promotion as Junior Engineer with effect from 18.07.1999 and consequential proforma promotion and seniority benefits at par with his similarly placed colleagues. Hence, the instant petition.

3. Learned counsel for the respondents admit the petitioner's appointment and possession of a B.E. (Electrical) degree but deny his entitlement to induction or promotion from the claimed date. They contend that the petitioner was appointed as Line Superintendent due to his lower merit and subsequently promoted as Junior Engineer on his own turn in accordance with the applicable seniority-cum-fitness criteria. He maintains that WAPDA and its allied entities are governed by their own service rules and regulations; therefore, the Cabinet Division Memorandum and other correspondence relied upon by the petitioner do not confer any automatic right of promotion. They submit that the directions of the Standing Committee were implemented through the prescribed administrative process, keeping in view seniority and regional/provincial quotas, and only eligible and senior Graduate Engineers were inducted. The petitioner, being junior, was not covered by the judgment of the Federal Service Tribunal or the subsequent orders passed in C.P. No.D-2842/2011. He further contends that the employees relied upon by the petitioner belonged to separate cadres or were senior to him. They deny that the petitioner possesses an identical case warranting extension of the same benefits and assert that his induction through open competition was not successful. Accordingly, the respondents maintain that the petitioner has already been promoted according to his own seniority and is not entitled to retrospective promotion, correction of his promotion date or any consequential benefits. He has prayed for dismissal of the petition with costs.

4. We have heard the learned counsel for the parties on the maintainability of the petition against respondents and perused the record with their assistance.

5. The petition is not maintainable under Article 199 of the Constitution, particularly in view of the latest pronouncement of Federal Constitutional Court (FCC) concerning service disputes of employees of power distribution companies. The most relevant judgment is The Chief Executive Officer, SEPCO, Sukkur and another v. Riaz Hussain and others, C.P.L.A. No.4687 of 2025, decided on 10.09.2026.

6. In the aforesaid judgment, the FCC held that where employees of a public-sector company are governed by contractual or non-statutory service conditions, disputes relating to appointment, promotion, disciplinary proceedings and other terms and conditions of service cannot be entertained under Article 199 merely because the employer performs public functions. The Court further held that once a constitutional petition is found to be non-maintainable, the High Court cannot proceed to examine the merits of the service grievance, and any such findings would have no legal effect.

7. In view of the above legal position, the controversy raised by the petitioner essentially relates to his induction/promotion to BPS-17, retrospective fixation of the date of promotion, seniority and consequential service benefits. These matters undeniably fall

within the realm of terms and conditions of employment of the distribution companies as discussed supra. The petitioner seeks enforcement of service policies, departmental decisions and previous judicial orders to claim parity with other employees. The judgment of the Federal Constitutional Court in CEO SEPCO v. Riaz Hussain and others (supra) is particularly relevant, as it settles the principle that employees of incorporated power distribution companies, whose service conditions are governed by non-statutory rules or policies, cannot invoke the constitutional jurisdiction of this court for adjudication of their individual service grievances.

8. Merely alleging discrimination or violation of Articles 14, 25 and 27 of the Constitution does not confer jurisdiction where the original employment relationship is not governed by statutory service rules. Furthermore, the judgments of Federal Service Tribunal and this Court, relied upon by the petitioner, cannot independently confer constitutional jurisdiction upon this Court or dispense with the requirement of establishing the petitioner's entitlement under the applicable service regime, more particularly in the terms of the ratio of the judgment of FFC on 10.9.2026.

9. The question whether the petitioner is similarly placed to the employees who were granted the benefit, and whether he fulfils the prescribed criteria for retrospective promotion, involves examination of service records, seniority, applicable rules and comparative eligibility, which cannot be undertaken in proceedings found to be outside the constitutional jurisdiction of this Court.

10. Accordingly, the instant petition is not maintainable under Article 199 of the Constitution and is dismissed on this ground alone, without touching the merits of his claim. The petitioner, however, shall be at liberty to avail the remedy available under the applicable law before the competent forum, if so advised.

JUDGE

JUDGE

Karar_Hussain/PS*