

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

Present:-

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

CP No. D- 3065 of 2016

Muhammad Rehan Qureshi v. Federation of Pakistan and others

CP No. D- 136 of 2017

Amjad Ali v. Federation of Pakistan and others

CP No. D- 348 of 2017

Asif Hussain v. Federation of Pakistan and others

CP No. D- 990 of 2018

Ghulam Mohiuddin v. C.E.O. (NTDC) WAPDA and others

CP No. D- 1339 of 2019

Kashif Ali v. Federation of Pakistan and others

Mr. Muhammad Jameel Khan, advocate for petitioner in CP No. D-3065 of 2016

Syed Shafiq Ahmed Shah, advocate for petitioner in CP No. D-136 / 2017

None present for petitioners in CP No. D- 348 of 2017, CP No. D- 990 of 2018.

Mr. Fakhruddin Dahraj, advocate for petitioner in CP No. D- 1339 of 2019

Mr. Fayaz Ahmed Leghari, advocate for Jamshoro Power Company Limited Jamshoro in CP No. D- 3065 of 2016

Mr. Muhammad Arshad S. Pathan, advocate for HESCO in CP No. D-3065 of 2016

Mr. Muhammad Aslam Bhatti, advocate for HESCO in CP No. D-136 of 2017

Mr. Aslam Pervaiz Khan, Assistant Attorney General

Date of hearing:
& decision:

12.11.2019

ORDER

ADNAN-UL-KARIM MEMON, J:- Petitioners in these petitions are seeking appointment in Hyderabad Electric Supply Company (HESCO), Jamshoro Power Company (JPCL) and National Transmission and Dispatch Company (NTDC) on Deceased Employee Quota in terms of Policy Order dated 8.4.2004 issued by Water and Power Development Authority (WAPDA). Learned Counsel representing the Respondent-Companies in the above petitions opposed these petitions being not maintainable on the ground that they do not fall in the aforesaid policy and the petitioners are not eligible to be considered for appointment under deceased / son quota. However, finally, they have consented for disposal of these petitions at Katcha Peshi stage. Since the questions of facts and law are common, hence all the above captioned petitions are being disposed by this common order.

2. We have heard the parties present in Court on the point of maintainability of these petitions. In our view, the terms of Policy Order dated 8.4.2004 is very clear, however this Court vide common order dated 23.7.2019 passed certain directions to Chief Executive Officer, HESCO, which ought to have been complied with in letter and spirit, besides this as per the profile of the respondent-companies, they are state enterprises. The Government owns the majority of shares. The Chief Executive of the Companies is a nominee of the Government of Pakistan and has been delegated with such powers by the Board of Directors as are necessary to effectively conduct the business of the Companies. In view of the above background and legal position, HESCO / JPCL and NTDC can ordinarily be regarded as “person” performing functions in connection with the affairs of the Federation under Article 199 (1) (a) (ii) read with Article 199 (5) of the Constitution. Thus, the High Court has jurisdiction to exercise judicial powers in the affairs of the aforesaid companies under the Constitution. The objection on the maintainability of the captioned Constitution Petitions is not sustainable in law and is accordingly rejected.

3. We have noticed that in the comments furnished by the respondent-companies, though they have not denied the status of the petitioners to be son of deceased employees, but it has been asserted that the policy regarding appointment of the children against the quota meant for deceased employees is not applicable to the petitioners whose parents have died, therefore, the said policy is not attracted in these petitions. We are not convinced with these assertions for the simple reasons that policy provides

quota of the posts in BPS-1 to 9 in all categories for the children of WAPDA employees and this policy is fully applicable in the case of respondent-companies. In the light of policy dated 8.4.2004 and order dated 23.7.2019 passed by this Court in the aforesaid proceedings, these petitions are disposed of in the same terms with further directions to the parties that all the petitioners shall submit their respective applications along with supporting material / documents to the Chief Executive Officer of HESCO/JPCL/NTDC, through any recognized courier service on or before 25.11.2019, for scrutiny, consideration and decision through a speaking order on or before 31.01.2020 strictly in accordance with law and the prescribed rules, procedure and policy, after providing opportunity of hearing to the petitioners. Offer letters shall be issued only to those petitioners who are approved by the Chief Executive Officer of HESCO / competent authority whereafter such petitioners shall complete all legal and codal formalities required under the law and the relevant rules, procedure and policy. Petitioners who are not approved by the competent authority may seek their remedy, if any, before the competent forum in accordance with law. Compliance report shall be filed by the Chief Executive Officer of HESCO, through Additional Registrar of this Court latest by 15.02.2020. Let, notice be issued to the Chief executive officer HESCO / Competent Authority of the concerned companies along with a copy of this order for information and its compliance in letter and spirit.

4. At this juncture, learned counsel for JPCL in CP No. D- 348 of 2017 has pointed out that petitioner was engaged vide order dated 4.10.2013 but he failed to join the post within stipulated period. Be that as it may, let him report to the respondent-company within a period of two (02) weeks from the date of receipt of this order.

5. We have noticed that in CP No. D- 990 of 2018, learned counsel representing the respondent NTDC has filed a statement dated 12.9.2019 with the assertion that the grievance of the petitioner has been redressed as he has been appointed as Junior Clerk in BPS-9 on contract basis. Be that as it may, in view of the above statement, the instant petition has served its purpose and is accordingly disposed of.

JUDGE

JUDGE