

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

CP No. D- 199 of 2017

Present:-
Mr. Justice Muhammad Saleem Jessar
Mr. Justice Adnan-ul-Karim Memon

Date of hearing:
& decision: 20.11.2019

Petitioner: Talib Hussain present in person

Respondent-1: through Mr. Aslam Pervaiz Khan, Assistant
Attorney General

Respondents 2to4: through Mr. Muhammad Arshad S. Pathan,
Advocate

ORDER

ADNAN-UL-KARIM MEMON, J:- Petitioner is seeking appointment in Hyderabad Electric Supply Company (HESCO) on Deceased Employee Quota in terms of Policy Order dated 8.4.2004 issued by Water and Power Development Authority (WAPDA).as amended up to date. Learned Counsel representing the HESCO has opposed this petition being not maintainable on the ground that the case of petitioner does not fall in the aforesaid policy and the petitioner is not eligible to be considered for appointment under deceased / son quota. However, finally, he consented for disposal of this petition at Katcha Peshi stage.

2. We have heard the parties present in Court on the point of maintainability of this petition. In our view, the terms of Policy Orders dated 8.4.2004 and 23.9.2010 are very clear, however this Court vide common order dated 23.7.2019, in various petitions of similar nature 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 respondent-company, which state enterprises. The Government owns the majority of shares. The Chief Executive of the respondent-company 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 Company. In view of the above background and legal

position, HESCO 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-company, though they have not denied the status of the petitioner to be son of deceased employee, 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 petitioner whose father has died, therefore, the said policy is not attracted in this petition. 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-company. In the light of policy dated 8.4.2004 and order dated 23.7.2019 passed by this Court in the aforesaid proceedings, this petition is disposed of in the same terms with further directions to the parties that the petitioner shall submit his application along with supporting material / documents to the Chief Executive Officer of HESCO, 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 petitioner. Offer letter shall be issued only to petitioner who is approved by the Chief Executive Officer of HESCO / competent authority where after petitioner shall complete all legal and codal formalities required under the law and the relevant rules, procedure and policy. If the candidature of the Petitioner is not approved by the competent authority, he may seek his 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, a notice be issued to the Chief Executive Officer HESCO / Competent Authority along with a copy of this order for information and its compliance in letter and spirit.

JUDGE

JUDGE