

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

C.P No. D-431 of 2026

[Shafi Muhammad & others Vs. Federation of Pakistan & others]

**PRESENT: Mr. Justice Zulfiqar Ali Sangi
Mr. Justice Ali Haider 'Ada'**

Petitioners : Through Mr. Aamir Ali Sohoo,
Advocate

Date of Hearing : 25.08.2026

Date of Order : 25.08.2026

O R D E R

ZULFIQAR ALI SANGI, J;- Through the instant Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioners, claiming themselves to be retired Line Men (LMs) of Sukkur Electric Power Company (SEPCO), have called in question the alleged denial of their promotion from the post of LM-I (BPS-11) to LS-II/LFM-II (BPS-14). They seek a declaration that the alleged denial of promotion is illegal, arbitrary, discriminatory and without lawful authority, and have further prayed for grant of promotion with all consequential service and monetary benefits.

2. Learned counsel for the petitioners submits that the petitioners served as Line Men within the jurisdiction of SDO Shaikh Zaid, Larkana and SDO Chandka, Larkana. It is contended that, pursuant to the directions of SEPCO, they were relieved from their respective places of posting and deputed to the Regional Training Centre (RTC), Sukkur, for undergoing promotional training. According to learned counsel, the petitioners successfully completed the prescribed training and were declared successful vide letter dated 25.07.2024 issued by the Principal, Regional Training Centre, SEPCO, Sukkur. It is further asserted that,

despite fulfillment of the requisite training requirements, other similarly placed employees were promoted, whereas the petitioners, who subsequently retired from service, were allegedly deprived of their legitimate promotion. On this premise, reliance has been placed upon Articles 18 and 25 of the Constitution, seeking appropriate relief together with all consequential benefits.

3. We have heard learned counsel for the petitioners and have carefully examined the averments contained in the petition, the documents placed on record and the relief sought therein. However, before entering into the merits of the controversy, a fundamental question regarding the maintainability of the instant petition arises, which goes to the very root of the matter. It is settled law that where the Court lacks jurisdiction to entertain a particular cause, the merits of the claim need not, and indeed cannot, be examined.

4. The issue involved herein is no longer *res integra*. A learned Division Bench of this Court, while considering an identical controversy in **C.P. No. D-821 of 2021**, vide order dated **10.02.2022**, examined the question whether an employee of SEPCO could invoke the constitutional jurisdiction of this Court in relation to his terms and conditions of service. While determining the said question, the learned Division Bench considered in detail the authoritative pronouncement of the Hon'ble Supreme Court in **Civil Appeal No.749 of 2021, Pakistan Electric Power Company v. Syed Salahuddin and others, (2022 SCMR 991)** decided on **21.12.2021**, wherein the legal status of employees of power distribution companies incorporated as separate corporate entities following the bifurcation of WAPDA was considered.

5. The Hon'ble Supreme Court, while dealing with an analogous controversy relating to QESCO/PEPCO, held, in substance, that companies incorporated as distinct and separate legal entities under the Companies Ordinance, 1984 do not acquire the character of statutory bodies merely because they have adopted the WAPDA Service Rules for their internal and administrative purposes. The mere adoption of such rules does not, by itself,

transform them into statutory rules having the force of law. Consequently, where the terms and conditions of service of an employee are not governed by statutory rules or any statutory instrument, the relationship between the employer and employee remains one of **master and servant**, and an alleged breach of such terms and conditions cannot ordinarily be enforced through the constitutional jurisdiction of the High Court under Article 199 of the Constitution.

6. The learned Division Bench of this Court, in the aforesaid **C.P. No. D-821 of 2021**, of which one of us, **Justice Zulfiqar Ali Sangi**, was a member, applied the above authoritative pronouncement specifically to SEPCO. The learned Bench observed that SEPCO had been incorporated in a manner analogous to QESCO and had adopted the WAPDA Service Rules for its internal purposes. It was, therefore, held that a constitutional petition by an employee of SEPCO in respect of his terms and conditions of service was not maintainable. Accordingly, the said petition was dismissed as not maintainable, while liberty was granted to the petitioner to avail such alternate remedy as might be available under the law.

7. The controversy raised in the instant petition squarely falls within the parameters of the aforesaid settled legal position. The entire grievance of the petitioners relates to their alleged entitlement to promotion, completion of promotional training, consideration for placement in the promotional hierarchy, alleged parity with other employees and the consequential benefits said to have accrued therefrom. All these matters are intrinsically connected with the terms and conditions of their employment with SEPCO and do not, in their present form, constitute enforcement of any public or statutory duty amenable to the constitutional jurisdiction of this Court.

8. Significantly, the petitioners have not been able to identify any statutory provision, statutory service rule or statutory instrument which confers upon them an enforceable right to promotion and, correspondingly, vests this Court with

constitutional jurisdiction to adjudicate their claim against SEPCO. The mere assertion that the petitioners completed promotional training or that certain other employees were subsequently promoted cannot, in itself, alter the legal character of the dispute. Even if such factual assertions are accepted, *arguendo*, at their face value, the relief ultimately sought remains a service claim arising out of the employer-employee relationship.

9. It is equally well settled that an employee does not acquire an indefeasible or vested right to promotion merely by virtue of having undergone a training course or having been declared successful therein. Ordinarily, promotion is dependent upon the applicable service rules/policy, availability of posts, seniority, eligibility, comparative assessment and fulfillment of all other prescribed conditions. Whether the petitioners fulfilled all such requirements, whether similarly situated employees were promoted, whether the petitioners were entitled to be considered before their retirement and whether any right to promotion had accrued in their favour, are essentially matters requiring examination of the relevant service framework and factual record. Such controversy cannot be converted into a constitutional cause merely by couching the grievance in terms of arbitrariness or discrimination.

10. Likewise, invocation of Articles 18 and 25 of the Constitution, by itself, does not confer jurisdiction upon this Court where the substantive dispute concerns purely service-related rights arising from a contractual relationship with a corporate employer. The constitutional guarantee of equality cannot be employed as a device to bypass the settled law governing the maintainability of service disputes. Before the question of violation of a constitutional right can arise, the petitioner must demonstrate an enforceable legal right and a corresponding public or statutory duty capable of being enforced in constitutional jurisdiction.

11. The fact that the petitioners have since retired from service further reinforces the need for examination of the legal basis of the relief claimed. Their request for promotion after retirement,

allegedly on the basis of training completed during service and promotions granted to other employees, necessarily involves determination of the effect of retirement upon their alleged promotional claim, the relevant promotion policy, the date on which any right to consideration accrued, the availability and nature of promotional posts, and whether retrospective or notional promotion can legally be granted after cessation of service. These questions are not capable of being determined in the abstract under Article 199, particularly in the absence of a statutory right enforceable against SEPCO.

12. We are conscious that the petitioners may have a grievance which, according to them, requires redressal. However, the existence of a grievance does not, by itself, confer constitutional jurisdiction upon this Court. **Jurisdiction must precede adjudication on merits.** Where the foundation of the claim is an employer-employee relationship and the relief sought pertains to promotion and consequential service benefits, the High Court cannot assume jurisdiction merely because the petitioner alleges unfairness, discrimination or arbitrariness.

13. We are also mindful that the law declared by the Hon'ble Supreme Court is binding upon this Court by virtue of Article 189 of the Constitution. The judgment in **Pakistan Electric Power Company v. Syed Salahuddin and others (2022 SCMR 991)** has been specifically applied to SEPCO by this Court in **C.P. No. D-821 of 2021**, vide order dated 10.02.2022. No material has been brought on record to demonstrate that the aforesaid legal position has subsequently been altered, distinguished or overruled, nor has any exceptional circumstance been shown which would take the present case outside the ratio of the said authoritative pronouncements.

14. It is, therefore, not necessary for this Court to embark upon an examination of the factual controversy as to whether the petitioners successfully completed the promotional training, whether other employees were promoted, whether the petitioners were senior or otherwise eligible, or whether any discriminatory

treatment was meted out to them. Any such examination, at this stage, would amount to adjudication of the merits of a dispute which is, in the first place, not maintainable in the constitutional jurisdiction of this Court.

15. For the foregoing reasons, and without expressing any opinion on the merits of the petitioners' claim regarding their alleged entitlement to promotion, completion of training, parity with other employees or consequential benefits, we are of the considered view that the instant Constitutional Petition, being a dispute relating to the terms and conditions of service of employees of SEPCO, is **not maintainable under Article 199 of the Constitution.**

16. Consequently, the instant Constitutional Petition, being misconceived and not maintainable, is **dismissed in limine**. The petitioners shall, however, remain at liberty to avail such alternate remedy as may be available to them under the law before the competent forum, if so advised. It is clarified that nothing contained in this order shall be construed as an expression of opinion on the merits of the petitioners' underlying claim, and the dismissal of the petition shall not prejudice their right to pursue any remedy otherwise available to them in accordance with law.

JUDGE

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