

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

C.P No. D- 1721 of 2016

Present:-

Mr. Justice Abdul Maalik Gaddi

Mr. Justice Adnan-ul-Karim Memon

Petitioner. : Through Mr. Imtiaz Ali Chaniho,
Advocate.

Respondent / HESCO : Through Mr. Muhammad Arshad S.
Pathan, Advocate

Respondent No.1 : Through Mr. Muhammad Humayoon,
Khan, D.A.G for Pakistan

Date of hearing. : 01.09.2020
& decision.

ORDER

ABDUL MAALIK GADDI, J:- Through this constitutional petition, petitioner is seeking following relief:

1. *Set-aside the impugned order dated 16.03.2016, as the same is without jurisdiction, void ab-initio, of no legal effect, ultravires, illegal and unlawful and is liable to be set-aside.*
2. *Grant interim relief and injunction, thereby reinstate the petitioner with immediate effect and suspend the operation of impugned order dated 16.03.2016, till final decision of the instant petition.*
3. *Direct the respondents to vacate/cancel/withdraw show cause notices to the petitioner.*
4. *Award the cost to the petitioner.*
5. *Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioner.*

Learned counsel for the petitioner contends that by impugned order dated 16.03.2016 petitioner has been imposed major penalty of "Removal from Service" on account of theft committed by some factory owners; that the order passed by the Chief Operating Officer HESCO Hyderabad for removal from service to the petitioner is against the law and fact hence, liable to be set-aside. Learned

counsel lastly prayed for re-instatement of the petitioner with immediate effect.

Learned counsel for respondent / HESCO has filed a statement stating therein that the petitioner has filed appeal before the appellate authority wherein the appeal of the petitioner was already rejected even before filing of the petition as the petition has been filed on 14.07.2016 whereas the order of rejection of appeal was passed on 26.05.2016, such fact has been suppressed by the petitioner and the matter was fixed on 17.11.2016 on which date the para wise comments have been filed and in para 7 of the para wise comments and annexed documents thereto proves such fact.

It is noted that petitioner has filed departmental appeal before the competent authority by challenging the order of removal from service which was dismissed vide order dated 26.05.2016 and such fact has been suppressed by the petitioner in his petition. However, when this fact was confronted to the counsel for petitioner, he has no satisfactory answer with him. It is also noted that petitioner has not challenged / assailed the order dated 26.05.2016 whereby his appeal was dismissed hence, under these circumstances, it appears that petitioner has not come before this Court with clean hands. It is settled law that whoever seeks equity must do equity and equity moves in the aid of law and not to defeat the law and equitable relief cannot be granted to the person foundation on whose claim is based upon illegal or who approached to the Court with un-clean hands.

As observed above, this petition is not maintainable under the law hence, same is hereby dismissed along with pending application(s), if any.

Hafiz
1.9.2020

JUDGE


JUDGE