

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constt. Petition No. D-265 of 2023

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For orders on CMA No. 1327/2023
3. For hearing of main case.

**23.11.2023**

Mr. Gulmir Jatoi, for the petitioner.

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## **ORDER**

**YOUSUF ALI SAYEED, J.** - The Petitioner has invoked the jurisdiction of this Court under Article 199 of Constitution of Pakistan, seeking to impugn his dismissal from service with the Sui Southern Gas Company Limited (“**SSGCL**”) vide order dated 19.01.2023 and prayed for reinstatement.

2. In that regard, it merits consideration that in the case reported as M/s. Sui Southern Gas Company Limited v. Saeed Ahmed Khoso 2022 SCMR 1256, while considering whether Petitions under Article 199 were maintainable as against SSGCL, it was observed by the Supreme Court as follows:

"5. We have heard the learned Counsel for the parties and gone through the record. The only question requiring determination by this Court is whether or not the High Court correctly exercised the jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. It is settled law by this court that where employment rules are non-statutory in nature, the relationship of employer and employee is C. P. No. D-1056 of 2022 governed by the principle of master and servant. The learned ASC for the Respondent does not contest, neither that the rules governing terms and conditions of employment of the Respondent are non-statutory nor that ordinarily the principle of master and servant would apply in governing the relationship between the employer and the employee. However, he has attempted to draw a distinction between the Companies owned by the Federal Government and the companies registered under the Companies Ordinance, 1984 / Act, 2017 which have private shareholders to argue that where the State has a stake in the company then it has to be treated on a different footing and its rules are to be treated as statutory in nature. In this context, he has relied upon the judgments of this court reported as Muhammad Rafi v. Federation of Pakistan (2016 SCMR 2146) and Pakistan Defence Offices Housing Authority v. Itrat Sajjad Awan (2017 SCMR 2010).

6. Having gone through the aforementioned judgments, we find that the said judgments relate to the Securities and Exchange

Commission of Pakistan, the Civil Aviation Authority and the Defence Housing Authority. There is a clear distinction in the treatment of statutory Bodies and the Corporations as opposed to the limited companies. Consequently, we are not impressed by the argument of learned counsel for the Respondent that a Company in which the Government has a shareholding is to be treated at par with statutory Corporations and Authorities.”

3. In the very same judgment, the Court then went on to observe that:

“8. Further, the learned High Court has unfortunately not noticed three judgments of this Court noted in paragraph 5 above which directly relate to the questions in hand and has instead relied on general principles of law relating to statutory corporations and authorities which were clearly not attracted to the facts and circumstances of the case. The argument of the learned counsel that the Respondent was entitled to due process where his civil rights were to be determined may could have substance. However, in the instant case, only question before us is which forum was available to him in the facts and circumstances of the case before which the rights claimed by the Respondent be asserted. The instant case, we are in no manner of doubt that such forum was not the High Court in exercise of its constitutional jurisdiction under Article 199 of the Constitution.”

4. It is apparent from the foregoing that where, as in the case of SSGCL, employment rules are non-statutory in nature, the relationship of an employer and employee is governed by the principle of master and servant and a Petition under Article 199 is not maintainable.
5. That being so, the Petition stands dismissed *in limine*, along with the pending miscellaneous application.

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