

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No. D- 974 of 2020

[Amir Farooque Khaliji & others Vs. Federation of Pakistan & others]

Before:
Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro.

Mr. Karamullah Memon, advocate for petitioners.

Mr. Muhammad Arshad S. Pathan, advocate for respondents No.2 to 4.

Mr. Shamsuddin Rajper, Deputy Attorney General.

Date of hearing
& Decision: **30.10.2025.**

ORDER

NISAR AHMED BHANBHRO, J - Through this petition, the petitioners have sought the following reliefs:-

“(a) This Honourable Court may declare that, the petitioners are entitled to get the Special WAPDA allowances from the date of sanctioning w. e. f 20.02.2009 as other Graduate Engineers are being paid by respondents.

(b) That, the respondents No. 2 to 4 may be directed to issue such letter of grant of Special WAPDA allowances Rs.10,000/ per month for petitioners to all head of formation of WAPDA and respondent No. 5.

(c) Any other relief which this Honourable Court deems fit and proper.

(d) Cost of the petition.”

2. Learned counsel for the petitioners contends that the petitioners joined the respondents' department and, during service, improved their qualification by obtaining the degree of B. Tech. (Hons). Subsequently, they were promoted as Junior Engineers (Civil), and since then they have been posted in different formations of WAPDA under the supervision of the respondents. He submits that on 20.02.2009, Special WAPDA Allowance @ Rs.10,000/- per month was approved for Graduate Engineers in BPS-17 and above working in all engineering cadres of WAPDA. In this regard, a letter dated 20.02.2009 was issued and the said Special Allowance has been allowed to colleagues of the petitioners serving in various distribution and power companies of WAPDA such as MEPCO, LESCO, PEPCO, IESCO/NTDC, GEPCO and JPCL (Jamshoro). Despite repeated requests by the petitioners, as well as various judgments passed by the

superior Courts, the benefit in question has been denied to the petitioners. It is further submitted that the petitioners are serving in BPS-17 in engineering cadres of WAPDA holding B. Tech. (Hons.) degrees which are equivalent to B.E. / B.Sc. Engineering degrees, yet they are being subjected to discrimination without any rationale or intelligible differentia between B. Tech. (Hons.) and B.E. degree holders.

3. Conversely, learned counsel for respondent-HESCO submits that the Special Allowance is not uniform even for Graduate Engineers as its grant is subject to certain requirements and formalities. According to him, B. Tech. (Hons.) degree holders are not entitled to such allowance, as the petitioners are neither "Graduate Engineers" nor have they established any enforceable legal right or locus standi. It is argued that the petitioners have failed to prove their own entitlement and are merely relying upon the cases of others.

4. Heard and perused the record.

5. It is the case of the petitioners that all the other employees of the distribution companies working under the domain of WAPDA were granted 10% additional allowance in terms of their qualification and this relief is not being acceded to the petitioners who are employees of HESCO. It is also admitted position that the Junior Engineers working in MEPCO, LESCO, and NTDC have been receiving these benefits for which the Companies had issued notifications way back in the year 2013 and 2014.

6. It is settled principle of law that an employee is entitled to equal pay for equal work. When the case of the petitioners is identical to the employees of other Companies then they are entitled for this special allowance to shun the disparity among the same class of persons.

7. Article 25 of the Constitution of Islamic Republic of Pakistan provides for intelligible differentia but in the present case the respondents have failed to demonstrate that how the case of the petitioners is different from the case of the employees of other Companies.

8. WAPDA is parent Authority of all distribution Companies and vide notification dated 20.02.2009 the relief of Special Allowance was given to the graduate engineers in grade 17 and above. For the sake of convenience, notification dated 20.02.2009 is reproduced as under:-

“In supersession of this Division’s O.M. No.FO(B&F)/10-66(b)/Vol-22/824-923 dated 30.08.2008, the Authority has been pleased to accord approval for restoration of “Special Engineering Allowance” as “Special Wapda Allowance” at uniform rate of Rs.10,000/- (Rupees ten thousand only) per month, with immediate effect, for Graduation Engineers in BPS-17 & above, working in all engineering cadres of Wapda.”

9. No rationale has been assigned to differentiate the petitioners from the employees of other sister Companies. When confronted, learned counsel for respondents/HESCO apprised that only Board of Directors of HESCO is competent to grant this special allowance, and Board of Directors at present is not in existence as is dissolved by Federal Government. This argument will not change the status of the petitioners. Even in absence of Board of Directors the petitioners can be granted this relief through the executive order by the HR Department of HESCO.

10. Since the respondents have failed to establish ingredients of intelligible differentia therefore, it can be safely held that the case of the petitioners is on same footings as of those who have been granted relief by the WAPDA and other companies bifurcated viz. MEPCO, LESCO, etc. Consequently, this petition is allowed. The respondents are directed to grant subject Special Allowance to the petitioners from the date of institution of this petition. Office is directed to send a copy of this order to official respondents for compliance.

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