

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Civil Revision No. 01/2025

National Defence University (NDU)
Versus
Nadia Asghar

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
------------------------------	----------------------------	---

13.05.2025	Mr.Nauman Munir Paracha, Advocate for petitioner. Rana Abid Nazir Khan, Advocate for respondent.
------------	---

Objection Case No.9321 / 2025:

Office has raised objection to the filing of instant C.M. filed by the applicant Ms. Nadia Asghar in C.R. No. 1 of 2025 with the prayer that the main civil revision be transferred to any other bench. The ground highlighted for transfer of the case is referred as this Court has earlier decided a similar matter between the same parties vide judgment dated 30th April 2025 in RFA No. 294 of 2024 and RFA No. 628 of 2024. Therefore, it is alleged that the mind of this bench has already been disclosed regarding the subject matter, and the bench has developed some bias or partial opinion.

2. It has also been claimed by the applicant that her counsel was a member of some commission in which a fact-finding report was prepared in connection with the storming incident of the Honourable Chief Justice of the Islamabad High Court, due to this reason, she contends that some ill feelings have been developed against her counsel, therefore, considering these self-assumed and implicit observations of bias and partiality against this

bench, the applicant/respondent prayed for the transfer of the instant civil revision before any other bench of the Islamabad High Court.

3. Learned counsel for the applicant narrated these incidents in the application purely on a assumption basis. The office has raised the objection that such an application is not entertainable. It is crucial to dilate upon the question of transfer of cases from one bench to another within the same High Court. No doubt, the option of transfer of cases is available to litigants from one bench to another; however, such transfer cannot be made as a matter of routine on the pretext of bias not supported by any cogent reason. The question of transfer is settled by the Superior Court in 1992 SCMR 140 (Ms. Benazir Bhutto versus President of Pakistan), wherein while addressing the applications for case transfer, the Supreme Court emphasized various situations that could indicate judicial bias warranting disqualification of a judge. It was held that if bias arises from a pecuniary or proprietary interest—no matter how minor—it constitutes grounds for disqualification. However, it was also observed that mere suspicion, even if not unreasonable, does not suffice for constituting bias. In PLD 1976 [SC] 57 (Islamic Republic of Pakistan through Secretary, Ministry of Interior and Kashmir Affairs, Islamabad versus Abdul Wali Khan MNA, former President of defunct National Awami Party), the

Supreme Court disregarded the objection that if a judge has given a decision in one matter of a person in one capacity, it would disqualify him to hear another matter. Based on this case of Abdul Wali Khan (Supra), an analogy can be drawn against the applicant's counsel who has made some observation against the bench in the fact-finding report on the storming incident involving the Honourable Chief Justice of the Islamabad High Court. Therefore, in that capacity, it is not appropriate that this court be considered as having a bias.

4. This bench has already decided a similar matter between the same parties, including WP Nos. 4190 of 2019, 4427 of 2019, as well as in WP No. 1820 of 2021, and the matter has been settled in CP No. 5211 of 2021 by the Supreme Court of Pakistan. The aspects highlighted by the petitioner's counsel would not be considered as points of suspicion of bias against the bench, even RFA No.294 of 2024, is an independent matter decided by this Court on its own merit. Nevertheless, not every incident regarded as unfavorable by the applicant would justify the transfer of the case. The test of reasonableness of apprehension must be satisfied—namely, that the apprehension must be such that a reasonable man might justifiably be expected to have—as held in PLD 1973 [SC] 327 (Muhammad Nawaz versus Ghulam Qadir and three others). With reference to the transfer of cases from one bench to another within the same High Court, the

Islamabad High Court has already discouraged such practice of forum shopping, as there is no principle of transfer of cases from one bench to another, and the matter is left to the discretion of judges, as held in **2023 PCr.L.J [Islamabad] 350 (Muhammad Azam Khan Swati versus The State and others).**

5. In view of the consistent practice and applicable law settled by the Supreme Court of Pakistan, the office has rightly raised the objection that the C.M. is not maintainable, resultantly, office objection is **SUSTAINED.**

Main Case:

Learned counsel for the petitioner expressed his intention to argue the main case. However, learned counsel for the respondent, after contesting the C.M. on the office objection, requested some time to prepare his brief. Accordingly, the matter is adjourned to 25.06.2025, with a clear direction that no further opportunity shall be granted. Both parties are directed to argue the case by all means on the next date of hearing.

(MOHSIN AKHTAR KAYANI)
JUDGE