

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

C.R No. 24 of 2020

Muhammad Kashif
Vs
Federation of Pakistan, etc

Date of hearing:	06.07.2020
Petitioner By:	Ch. Muhammad Kashif Gujjar, Advocate.
Respondents by:	Ch. Abdul Jabbar, AAG, & M. Mohsin Pasha, Joint Estate Officer.

Ghulam Azam Qambrani, J: This Civil Revision petition is directed against the order dated: 10.12.2019 passed by the learned Civil Judge-West, Islamabad and Judgment dated 16.01.2020 passed by the learned Additional District Judge-West, Islamabad respectively whereby application Under Order XXXIX Rules 1 & 2 CPC filed by the petitioner was rejected.

2. Brief facts of the case are that the petitioner is son of ex-allottee of House No. 575-D, Street No. 36, Sector G-6/1-3, Islamabad, who was Assistant (BPS-16) in Ministry of Defence, Production, Government of Pakistan, Islamabad, and was retired on 08.02.2019; that the petitioner is claiming the said house on the ground that he is serving as LDC in BPS-09 since 14.11.2011 at Islamabad Model School for Boys, Dhoke Syedan, Islamabad, on daily wages basis and that now he has qualified to be regularized, as such, he is entitled for allotment of the aforesaid house.

3. The petitioner filed a civil suit for declaration, mandatory & permanent injunction alongiwth an application under Order XXXIX Rules 1 & 2 CPC. The suit was contested by the respondents and the learned Civil

Judge vide order dated 10.12.2019 dismissed the application of the petitioner under Order XXXIX Rules 1 & 2 CPC. Being aggrieved the petitioner filed an appeal before the learned Additional District Judge-West, Islamabad, which was also dismissed, vide Judgment dated 16.01.2020, hence, the instant Civil Revision Petition.

4. Learned counsel for the petitioner submits that the petitioner is serving as LDC since 14.11.2011 and his name has been approved by the Sub-Committee of the Cabinet Division on regularization of contract and daily wages employees of the Federal Government in its meeting held on 21.2.2013. Further submits that as per Rule 15 (2-B) of Accommodation Allocation Rules, 2002, the petitioner is entitled for the allotment of the said quarter, but respondents No.1 & 2 malafidely and illegally are trying to dispossess the petitioner from the said house to allocate the same to some other person.

5. On the other hand, learned AAG submits that under Rule 2 (G) of AAR, 2002, the employees working on daily wages/contingent basis are not Federal Government servants, as such, they are not eligible for government accommodation. Further submits that as per list of daily wages teaching and non-teaching staff, Sector Bahara Kahu, Islamabad, the name of the petitioner is not reflected in the detail of employees of said school. As such both the Courts below have rightly dismissed the application of the petitioner under Order XXXIX Rules 1 & 2 CPC vide impugned order and Judgment dated: 10.12.2019 & 16.01.2019 respectively.

6. Arguments heard, record perused.

7. Perusal of Rule 2 (G) of Accommodation Allocation Rules, 2002 reveals that a daily wager or an employee on contingent basis on adhoc

basis is not entitled for any government accommodation. For ready reference Rule 2 (g) is reproduced hereunder;-

“ (g) “ Federal Government Servant (FGS)” means a person who is appointed in a Ministry, Division, or an Attached Department against a regular post and certified as such by the concerned Ministry, Division or Department excluding incumbents of posts filled on daily wages, work charged basis or hired from contingencies, and ad-hoc basis.

Perusal of the record further reveals that petitioner has not been regularized till date, as such, he has no prima facie arguable case in his favour. The petitioner has not yet acquired the status of a federal government servant. There is no allotment of accommodation in his favour by the Estate Officer as required under section 2 (b) of the Accommodation Allocation Rules, 2002, hence prima facie, he is not entitled for any government accommodation, therefore, both the Courts below have rightly rejected the application of the petitioner under Order XXXIX Rules 1 & 2 CPC.

8. In view of what has been discussed above, learned counsel for the petitioner has failed to point out any illegality, irregularity, jurisdictional or legal defect in the impugned order and judgment dated 10.12.2019 & 16.1.2020, passed by the learned Civil Judge and learned Additional District Judge-West, Islamabad, respectively. The instant Civil Revision Petition, having no force, is **dismissed**.

Ghulam Azam Qambrani
Judge

Announced in open Court on 7th day of July, 2020.

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