

Form No: HCJD/C-121.

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P No. 1244 of 2019

Mst. Samina Bibi

Vs

Capital Development Authority through its Chairman, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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31-10-2019. Mr. Usman Ali Chaudhry, Advocate for the
petitioner.
Mr. Adil Aziz Qazi, Advocate for respondents.

Through this petition the petitioner has assailed order, dated 12.03.2019, whereby letter, dated 06.03.2017, has been withdrawn. The petitioner was regularized in service through the aforementioned letter.

2. The learned counsel for the petitioner has stated that the impugned order was passed without complying with the principles of due process. The learned counsel has stated that neither show cause notice was issued nor the petitioner was heard before passing of the impugned order.

3. Admittedly, the services of the petitioner were regularized by the Capital

Development Authority vide letter, dated 06.03.2017. The learned counsel who has appeared on behalf of the Capital Development Authority was asked whether before passing the impugned order, the petitioner was offered a reasonable opportunity of hearing. The learned counsel could not satisfy this Court that the impugned order was passed by the competent authority after fulfilling the mandatory requirements of due process.

4. It is noted that compliance with the mandatory requirements of due process is embedded in the fundamental right guaranteed under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. This Court is satisfied that the impugned order, dated 12.03.2019, was passed in violation of the said guaranteed fundamental right, and therefore, it is nullity in law. It is further noted that the petitioner was regularized in service vide letter dated, 06.03.2017, and therefore, her vested right could not have been taken away without observing requirements of due process and passing a speaking order.

5. For what has been discussed above, this petition is allowed and the impugned order, dated 12.03.2019, is hereby set aside. In case the competent authority intends to initiate proceedings relating to regularization of the petitioner, then the latter would be expected to strictly observe the principles of due process.

CHIEF JUSTICE

Sherazi/*.