

Form No: HCJD/C-121  
ORDER SHEET  
IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
(JUDICIAL DEPARTMENT)

W.P. No.1410 of 2019

Nafees Ahmed

Versus

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.
------------------------------	----------------------------	---

02-10-2019	M/s Syed Khawar Ameer Bukhari and Ch. Khanzada, Advocates for the petitioners in their respective petitions. Mrs. Misbah Gulnar Sharif, Advocate for Capital Development Authority.
------------	--

Through this consolidated order, I intend to decide the instant writ petition along with W.P No. 2414/2019 (Azmat Hayat vs. Capital Development Authority through its Chairman, etc.), W.P No. 2415/2019 (Saad Ullah Khan Niazi vs. Capital Development Authority through its Chairman, etc.) and W.P No. 2511/2019 (Masood Khalid vs. Capital Development Authority through its Chairman, etc.).

2. In all the petitions the petitioners have assailed their respective repatriation orders.

3. The facts, in brief, are that the petitioners were transferred to the Capital Development Authority as deputationists. However, they were later absorbed and had become permanent employees of the Capital Development Authority. It is an admitted position that before passing the impugned orders the competent authority had not afforded opportunity of hearing to the petitioners. It is noted that it was not a simple case of repatriation. The petitioners were absorbed and their respective orders were passed by the competent authority. Moreover, after absorption they had become permanent employees of the Capital Development Authority and their status no more remains that of deputationists. It appears from the impugned orders that competent authority has taken a decision in the light of the judgments rendered by the august Supreme Court in cases titled "Contempt proceedings against the Chief Secretary, Sindh and others" **[2013 SCMR 1752]** and "*Ali Azhar Khan Baloch Vs. Province of Sindh*" **[2015 SCMR 456]**. In such an eventuality the competent authority was expected to have taken into consideration order, dated 13.02.2019, passed by the august Supreme Court in Criminal Original no. 18/2015 in Criminal

Original no. 89/2011, etc. It is further noted that earlier some other similarly placed employees of the Capital Development Authority had also invoked the jurisdiction of this Court under Article 199 of the Constitution and their petitions were disposed of vide order, dated 03.06.2019, whereby their cases were remanded to the respondent authority for taking a decision afresh after complying with the mandatory requirements of due process as highlight by the august Supreme Court in the order, dated 13.02.2019. This Court has been informed by the learned counsel for the Capital Development Authority that subsequent to remand of the earlier petitions a committee has been constituted which is examining all the cases. The earlier petitioners whose cases were remanded to the respondent authority and the present petitioners are effected through orders which are of similar nature and, therefore, there is no doubt that all of them are similarly placed and treated in the same manner.

4. In view of the above, these petitions are allowed. To the extent of the petitioners the respective office orders, dated 08.04.2016 and 12.04.2016, are hereby set aside. The matter is

remanded to the competent authority. The latter after affording an opportunity of hearing to the petitioners will take a fresh decision in accordance with law, inter alia, taking into consideration, the principles and law highlighted by the august Supreme Court in cases titled "Contempt proceedings against the Chief Secretary, Sindh and others" **[2013 SCMR 1752]** and "*Ali Azhar Khan Baloch Vs. Province of Sindh*" **[2015 SCMR 456]**.

**(CHIEF JUSTICE)**

Saeed.