

Stereo. H C J D A-38.
JUDGMENT SHEET
IN THE LAHORE HIGH COURT, RAWALPINDI BENCH,
RAWALPINDI
JUDICIAL DEPARTMENT

Writ Petition No.2332 of 2024

Xenia Hamayun Sanik

Versus

**The Government of Punjab through Secretary Planning &
Development Board, Punjab Secretariat, Lahore & others**

J U D G M E N T

Date of hearing: 03.09.2024.
Petitioner by: Agha Muhammad Ali Khan, Advocate.
Respondents by: Mr. Imran Shaukat Rao, A.A.G. along with
Nasir Wilayat, Deputy Director (Admin.),
ABAD.

MUHAMMAD SAJID MEHMOOD SETHI, J.-

Through instant petition, petitioner has assailed vires of notices dated 19.04.2024, 03.05.2024, 05.06.2024, 03.07.2024 and 08.08.2024 for vacation of Chief House, ABAD, Rawalpindi.

2. Learned counsel for petitioner contends that notices in question were issued in violation of applicable policy i.e. ABAD Houses Allotment Policy, 2013 (“**the Policy of 2013**”). He argues that according to sub-clause (f) of clause 14 of the Policy *ibid*, nature of appointment and posting of petitioner falls within the scope of deputationist abroad, therefore, she cannot be compelled to vacate the premises. He maintains that Section 14(d) (iii) of the aforesaid policy is being invoked by the respondents without any lawful justification, whereof a maximum period of one year is provided in case of transfer / deputation out of Punjab. In support, he has relied upon *Muhammad Ashraf v. Board of Revenue, West Pakistan and another* (PLD 1968 Lahore 1155), *Mian Fazal Din v. Lahore Improvement Trust, Lahore and another* (PLD 1969 Supreme Court 223), *Government of Pakistan Ministry of Housing and Works through Joint Estate Officer, Federal Government Colony Hassan Ghari, Peshawar v. Malik Safeer*

Ahmed (2022 SCMR 2073) and Ihsan Ullah Bajwa v. The Chairman, City and Regional Planning Department University of Engineering and Technology, Lahore and 5 others (1991 MLD 1688).

3. Contrarily, learned Law Officer has vehemently opposed the above submissions of learned counsel for petitioner by contending that residence under possession of the petitioner is a designated residence for Chief ABAD, which was wrongfully converted to D-Type House by the House Allotment Committee in its meeting held on 12.08.2021 beyond its competence as according to the policy, the Committee is empowered to the House Allotment only. He contends that as per clause 14(d)(iii) of the Policy of 2013, any officer transferred out of Punjab can retain residence for a maximum period of one year.
4. Arguments heard. Available record perused.
5. Record shows that petitioner while serving as Deputy Director (Admin.) ABAD, Rawalpindi, was allotted house in question on 12.08.2021, which is still in possession of the petitioner. Meanwhile, petitioner was transferred to the Punjab Horticulture Authority as Director General on 14.06.2022. Subsequently, petitioner was transferred on deputation to the Capital Development Authority, Islamabad in March, 2023. Lastly, she has been posted as a Public Finance Management Expert in Subnational Governance Program under the Foreign Commonwealth Development Office, Islamabad vide notification dated 19.01.2024, which as per the stance of petitioner, is considered as deputation abroad irrespective of the fact that the officer is sent abroad or works in Pakistan.
6. The argument of learned Law Officer that as per clause 14(d)(iii) of the Policy of 2013, petitioner can retain the residence only for a period of one year. The said clause is reproduced as under:-

“In case of transfer / deputation to a Semi Government / Autonomous Body / Project or Provincial / Federal Government Agency

(i)
(ii)
(iii) Out of Punjab	For a maximum period of One year

(Provided his / her family lives in the official residence during the period)

The above clause clearly deals with a situation when a person is posted out of Punjab, not otherwise. Whereas, clause 14(f) of the Policy of 2013 deals with a situation when an employee is on deputation abroad, is entitled to retain official residence for a maximum period of three years. The said clause is reproduced hereunder:-

“In case of training / deputation abroad and Ex-Pakistan leave, for a maximum period of three years provided his / her family lives in the official residence during the period.”

7. It is an established principle of law that when a specific provision is enacted to address a particular situation, it supersedes general provisions to the same effect, therefore, in such circumstances, resort has to be made to that specific provision not general provision. Reliance is placed upon Muhammad Amin Khan And 4 others v. Muhammad Siddique and another [1984 P Cr. L J 1580], BOOLCHAND v. Qazi Muhammad Bachal (1987 CLC 1109) and Darya Khan v. Central Board of Revenue, Islamabad through Chairman and 3 others (1995 M L D 1737).

8. Undoubtedly, allotment of residence cannot be claimed as a matter of right by a Government servant, yet he / she would be entitled to be dealt with in a fair, reasonable and unbiased manner. Reliance is placed upon Dr. Muhammad Latif v. Government of the Punjab through Secretary, Services, General Administration and Information Department and 2 others (1993 CLC 1645).

9. In view of the above, this petition is allowed. Consequently, impugned notices are declared to be illegal and without lawful authority.

(Muhammad Sajid Mehmood Sethi)
Judge

APPROVED FOR REPORTING

Judge