JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 79 of 2025

Mst. Safia Begum

Versus

Capital Development Authority and another

Appellant by:	M/s Dr. Babar Awan and Farhad Malik, Advocates.
Respondents by:	Mr. Muhammad Nazir Jawwad, Advocate.
Assisted by:	Muhammad Yahya Khan Niazi, Judicial Law Clerk.
Date of Hearing:	**11.09.2025**

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INAAM AMEEN MINHAS, J:- Through the instant writ petition, the petitioner seeks a direction to the respondents /Capital Development Authority **("CDA")** to shift her residential plot from the undeveloped area of Village Ali Pur Farash to a developed sector of Islamabad, in particular Sector I-8.

2. The facts, in brief, leading to the filing of the instant writ petition are that the petitioner is a widow of Muhammad Aamir Malik, who joined the service of CDA on 08.11.1975 and after serving for about twenty-three years had died on 27.04.1998 in an accident, leaving behind the petitioner and minor children. Pensionary benefits were received by the petitioner and it came to her knowledge that her late husband was not allotted a residential plot in Islamabad despite the fact that his colleagues, who had joined CDA before May 1986 and were similarly placed, were granted such allotments. One Jabbar Hussain, who joined CDA along with the petitioner's husband was allotted a plot in sector E-12 and later on his plot was shifted from E-12 to I-8. CDA excluded the petitioner's name from the allotment list of 2006 for developed Sector I-8 and instead approved a nominal allotment in an undeveloped rural locality, village

Ali Pur Farash, vide letter dated 21.12.2010. The petitioner requested the CDA through written application dated 14.05.2015 to hand over possession of the plot, whereupon CDA vide letter dated 08.07.2015 informed her that possession of the allotted plot was not possible. Thereafter the petitioner requested the Chairman CDA to exchange her plot with a plot in developed sector of Islamabad, however, no response was made. The petitioner filed a complaint before the Wafaqi Mohtasib in 2015, which gave some recommendations to the CDA and the CDA failed to comply with the said recommendations of Wafaqi Mohtasib. Thereafter the petitioner filed a Writ Petition No. 295/2016, wherein this Court directed the respondents to decide her request/representation for exchange of the plot, which was decided by holding that exchange of plot from undeveloped sector to developed sector is not possible. Against the said order, the petitioner filed a criminal original No. 165/W/2016, which was dismissed vide order 01.11.2017.

3. The learned counsel for the petitioner contended that under the Cabinet Division's policy dated 01.09.2008, duly communicated to CDA on 13.09.2008, the petitioner being widow of deceased employee of CDA was allotted plot in village Ali Pur Farash, vide letter dated 21.12.2010; that CDA under the said policy had also shifted plots of other employees of CDA from undeveloped to developed sectors and that despite such precedents, CDA arbitrarily discriminated while not allowing exchange of the petitioner's plot from undeveloped to developed sector, which is violation of fundamental rights guaranteed under Articles 2-A, 4, 9 and 25 of the Constitution of Pakistan, 1973 **("Constitution")**.

4. Conversely, the learned counsel for CDA contended that in the last 20 years only 13 plots were exchanged by the CDA, in the years 2006-2007 some plots were exchanged on the recommendation of Wafaqi Mohtasib as well as direction of High Court with the approval of CDA Board as those plots were not cleared for handing over possession since 1989 due to adverse possession of area of plot by Afghan refugees and some plots of low paid employees in Sector G-10, G-11, were exchanged from under developed sectors D-12 & E-12 with the approval of CDA Board in 2007 as those employees belonged to

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hilly area of Azad Jammu Kashmir and their homes in their native villages collapsed due to earth quake in the year 2005, however, the petitioner's request for exchange of plot cannot be acceded to as in the year 2008 due to rush of such application for exchange of plots, the CDA Board decided that no further plot can be exchanged from one sector to another, which decision is still intact.

5. I have given anxious consideration to the arguments of the learned counsel for the parties and perused the record with their able assistance.

6. While considering the background of the matter the grounds raised by the parties, following question needs adjudication by this Court i.e. *whether CDA's refusal to shift the petitioner's plot from an undeveloped locality to a developed sector is unlawful, discriminatory and violates the principles of fairness and equal treatment?*

7. It is apparent from the record that CDA, vide letter dated 21.12.2010, allotted the petitioner a nominal plot in the rural locality of village Ali Pur Farash, which has not been developed so far. CDA vide letter dated 08.07.2015 informed the petitioner that possession of the allotted plot was not possible, therefore, the petitioner made request for exchange of her plot from undeveloped sector to developed sector, which was turned down by the Chairman, CDA.

8. The CDA submitted following report in the present writ petition:-

> *"In compliance of order of Islamabad High Court dated 10.06.2025 it is submitted that as per record of the office following plots were exchanged from one Sector to other Sector within 20 years as per background narrated against each:-*
>
> *a. Eleven (11) plots from Sector I-11, to Sector I-8, were exchanged/allotted on the recommendation of Wafaqi Mohtasib as well as direction of High Court with the approval of CDA Board, as earlier plots of these eleven employees could not be cleared for handing over possession since 1989 (date of allotment) due to adverse possession of area of plots by Afghan refugees and others. Hence their plots were exchanged in Sector I-8, at the time of allotment of plots to other employees/officers in 2006-07 on receipt of Judgment*

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of High Court upheld by Supreme Court of Pakistan in different writ petitions.

b. Two plots of low paid employees in Sector G-10, G-11, were exchanged from under developed / un-developed Sector D-12 & E-12, with the approval of CDA Board in 2007 because plots in CDA employees scheme were available in these sectors, as these employees belonging to hilly area of Azad Jamu Kashmir and their homes in their native villages collapsed/damaged as a result of earth quake in the year 2005.

c. Later on due to rush of such applicants the Board of Authority in year 2008 decided that no further plots can be exchanged from one sector to others Sector in future. The said decision of the Board still intact."

9. The above referred report reflects that the CDA has exchanged plots from undeveloped sectors to developed sectors in past, whereas in case of the present petitioner the CDA has refused to exchange the plot.

10. Articles 4 and 25 of the Constitution guarantees that every citizen shall be treated in accordance with law and every citizen is equal before the law and entitled to equal protection of law without any discrimination. The refusal of CDA to exchange the petitioner's plot, who is a widow, is without any rational, which creates an arbitrary and unjust distinction, when similarly placed employees have been granted allotments in developed sectors. Such refusal fails to satisfy the test of reasonable classification under Article 25 of the Constitution. It is a settled principle that any classification must be based on an intelligible differentia and must bear a rational nexus to the object sought to be achieved by the law. Reference, in this behalf, may be made to the judgments of Honorable Supreme Court of Pakistan in the cases ***Federation of Pakistan vs. Shuja Sharif,*** **(2023 SCMR 129)**, ***Hadayat Ullah vs. Federation of Pakistan,*** **(2022 SCMR 1691)**, ***Syed Azam Shah vs. Federation of Pakistan,*** **(2022 SCMR 201)** and ***Dr. Mobashir Hassan vs. Federation of Pakistan,*** **(PLD 2010 SC 265).** In the present case such differential treatment is in violation of the constitutional guarantee of equality and results in discriminatory practices that cannot be sustained in law.

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11. Moreover, the Honorable Supreme Court of Pakistan in the case of ***Muhammad Yousaf vs. Province of Sindh and others,*** **(2024 SCMR 1689)** held that:-

> *"8. According to Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution"), to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen and (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law; (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and (c) no person shall be compelled to do that which the law does not require him to do. In the case of Shahla Zia v. WAPDA (PLD 1994 SC 693), this Court held that the word "life" is very significant as it covers all facets of human existence. The word "life" does not mean, nor can it be restricted to, only vegetative or animal life or mere existence from conception to death. The word "life" includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. According to Article 3 of the Universal Declaration of Human Rights (UDHR), everyone has the right to life, liberty and security of person, while under Article 23, everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; everyone, without any discrimination, has the right to equal pay for equal work;* ***everyone who works has the right to just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection*** *……* ***The immensity of the expression "life" embedded in the Constitution under Article 9 has a manifold and multifarious understanding and interpretation, and it cannot be read in a restricted or limited sense, rather it should be read in its wholeness with all the fundamental rights, privileges, and obligations, and in case of any deprivation of lawful or accrued right, it amounts to cause serious impairment and defacement to the right to life."***

12. In these circumstances the right to equality before law and equal protection of law requires that the petitioner, widow of a CDA employee, must not be left remediless, when similarly placed other employees have been granted allotments in developed sectors. Denial of the petitioner's request to exchange her plot from undeveloped sector to developed sector amounts to hostile discrimination and a colourable exercise of discretion.

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13. For the foregoing reasons, this writ petition is ***allowed***. The CDA is directed to exchange the petitioner's residential plot allotted to her in village Ali Pur Farash with the plot in Sector I-8, Islamabad or in any other equivalent developed sector and hand over possession of the same within a period of one month from the receipt of copy of this judgment.

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 29.09.2025

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R.Anjam

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