ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 470/2014

Muhammad Dawood

Vs.

FGEHF, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	23.02.2022	Mr. Sadaqat Ali Jahangir, Advocate Malik Javed Iqbal Wains& Saeed Ahmed Joiya, Advocates for respondent.

Through instant petition, petitioner seeks direction to the respondents to allot him a plot measuring 30x80 square yards in Sector G-14, Islamabad as allotted to the other similar employees.

2. Relevant facts are that the petitioner served in Pakistan Ordinance Factory, Wah Cantt for 36 years and two months and retired on 14.12.1995 as store Holder in BPS-17; that in the years, 1988, he applied for allotment of plot in Phase-I category-III measuring 35x80 Sq.Ft by depositing Rs. 20,000/- in the NBP, Rawalpindi Cantt Branch, vide receipt No. 4429 dated 07.11.1988; that again he applied for allotment in Phase-III (G-13) in the year, 1996 and deposited Rs. 65000/- but his application was not considered, and he withdrew the said amount.

3. It is further asserted that some of his colleagues filed Writ Petition 137/1998 before the Hon'ble Lahore High Court, Rawalpindi Bench, Rawalpindi, whereby the respondent FGEHF was directed to accommodate the petitioners in the next housing scheme in G-14 on the basis of applications submitted for allotment in phase-I. that the petitioner applied for the allotment of plot in Sector G-14, Islamabad and deposited Rs. 66000/- third time. In the meanwhile, colleagues of the petitioner filed

contempt petition for implementation of the above order before the Hon'ble Lahore High Court, wherein once again respondent department was directed to act strictly in accordance with the judgment dated 31.05.2000 passed in writ petition No. 137/1998and that respondent has now issued offer letters against the plots in Phase-IV to the petitioners of writ petition No. 137/1998, but no letter was issued to him which is clear discrimination.

3. On the contrary,the stance of the respondent is that the employees of POF, Wah were not eligible to participate in the said scheme. The POF Wah itself accepted that POF Wah is an autonomous body vide their U.O No. 19/13/DP-8 dated 27.05.1989. The Cabinet Division also confirmed vide its letter dated 29.09.1990 that the employees of POF, Wah are not eligible for participation in the said scheme. The petitioners also filed a complaint before the Wafqi Mohtasib which was also rejected with the observation that they were not eligible for the allotment. Thereafter they filed petition before the Hon'ble Lahore High Court, Rawalpindi Bench, which was disposed of with the observations that the Housing Foundation should provide an opportunity of hearing to the petitioners. The CEO of Housing Foundation after hearing, rejected the claim of the petitioners. Subsequently the petitioners filed suit before the Senior Civil Judge, Islamabad which was withdrawn after lapse of 4 years and filed writ petition before Hon'ble Lahore High Court, Rawalpindi Bench, Rawalpindi which was disposed of with the findings that on the basis of applications of the petitioners for the allotment in Phase-I of the housing scheme submitted in the years 1988 shall be considered in the next housing scheme at Sector G-14, Islamabad.

4. Learned counsel contended that as per direction passed in the Writ petition No. 137/1998, the petitioners were considered for the allotment under the terms and conditions of the scheme, which has been admitted by the petitioners in criminal original. He further contended that the petitioners of the writ petition No. 137/1998, who have retired, are not eligible as

per approved policy of Phase-IV, the employees who are serving in the autonomous bodies are not eligible for the scheme. However, the employees who are still in service with POF, their cases are being considered on merit as per direction of the Hon'ble Court, if they have applied in phase-IV of the scheme. Hence the petition is not maintainable and the petitioner is not entitled for any relief.

5. Arguments heard, record perused.

6. Leaving aside to adjudge as to whether employees of POF Wah Catt cannot avail benefit under the housing scheme or otherwise, it is an admitted position that the petitioner was considered for allotment under retired employees' quota but as per age-wise seniority his case was not matured. The reason advanced by the respondent is that his date of birth is 25.5.1937 while the applicant last in queue whose case was matured for allotment under the said quota in Phase-III was 26.01.1935. thus, the stance of non-consideration, as put forth by the petitioner, is misconceived.

7. The question as to whether at the relevant time, petitioner falls within the category of eligible employees or otherwise, as reported by the respondent, noted above, require factual inquiry, not permissible in constitutional jurisdiction.

8. In view of above, instant petition fails and accordingly **dismissed.**

(ARBAB MUHAMMAD TAHIR)
JUDGE

Kamran//