JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.4442 of 2016
Mohammad Saleem Khan and others
Versus.
Capital Development Authority and another

Date of Hearing:	12.12.2017
Petitioners by:	M/s G.M. Chaudhary, Rana Abid Nazir Khan and M.A. Malik, Advocates.
Respondents by:	Mr. Adil Aziz Qazi, Advocate for Capital Development Authority.

MIANGUL HASSAN AURANGZEB, J:- Through this common judgment, I propose to decide writ petitions No.4442, 4444, 4591 and 4660 of 2016 since they entail common questions of law and fact.

2. The petitioners in all the said petitions are employees of the Capital Development Authority ("C.D.A."), and are residing in the Capital Officers' Hostel, F-5/2, Islamabad, which is owned, managed and controlled by the C.D.A. The petitioners assail the order dated 01.12.2016, issued by the Finance Wing of the C.D.A. which provides that the room rent for the said hostel only has been revised in pursuance of a decision taken in the meeting of the Board of Directors of C.D.A. held on 11.11.2016. As per the said decision, Rs.1,100/- was the revised room rent for the C.D.A. officers, and Rs.3,000/- for non-C.D.A. officers.

3. Rana Abid Nazir Khan, Advocate, learned counsel for the petitioners in writ petitions No.4442/2016 and 4444/2016 submitted that the petitioners were availing the facility of hostel accommodation on the basis of allotment letters issued by the C.D.A.; that earlier, the room rent in the said hostel for the C.D.A. officers was at the rate of "45% of the minimum pay & 5% deduction of present basic pay"; that the room rent had earlier been revised by the C.D.A. on 04.04.1998; that the increase in the room rent on the basis of the decision dated 11.11.2016 of the C.D.A. Board is unlawful, discriminatory, unreasonable, and irrational; that only room rent of the Officers' Hostel has been enhanced, whereas the room rent of the other Hostels managed and controlled by the C.D.A. have not been changed; and that

rooms in the said Hostel were allotted to the petitioners in fulfillment of the C.D.A.'s obligation to provide residential accommodations to the petitioners.

4. Learned counsel for the petitioners further submitted that the C.D.A. intends to deduct the room rent from the petitioners' salary; that it is the responsibility of the C.D.A.'s Directorate of Parliament Lodges and Hostels to maintain all the hostels under C.D.A.'s control; that the C.D.A. Board approves the maintenance budget for the said hostels; that the hostel of the C.D.A. hospital is also maintained and managed by the C.D.A. but its room rent has not been increased; that the salary of some of the employees of the C.D.A is less than the enhanced monthly room rent of the Officers' Hostel; that the room rent has not been enhanced across the board, but only for the Officers' Hostel; that a BS-17 and 18 officer is normally allotted a house with a covered area of 1100 sq. yard; that in lieu of government accommodations, such officers are paid Rs.22,000 to 24,000 per month as house rent allowance; that the enhanced room rent of the Officers' Hostel is far in excess of the house rent allowance payable to the petitioners; that enhanced room rent of the Officers' Hostel is even more than the house rent allowance of a BS-20 officer in the C.D.A.; that the C.D.A Board had given an unfair and preferential treatment to the employees occupying rooms in the hostel of the C.D.A. hospital; that the real reason for enhancing the room rent for the Officers' Hostel is to achieve the purpose of evicting all the occupants of the said hostel so that it is auctioned; and that the Officers' Hostel is built on three acres of prime land and the intention of the C.D.A board is to sell it off.

5. Mr. G.M. Chaudhary, Advocate learned counsel for the petitioner in W.P. No.4591/2016 has submitted that there were twelve federal lodges/hostels in Pakistan which were under the control of the Ministry of Housing, Government of Pakistan; that the room rents for such hostels fixed on 17.10.2012 were nominal; that the revised room rent for the Officers' Hostel should be commensurate with the room rent of the hostels under the control of Ministry of Housing; that the C.D.A. is also taking

steps to have government accommodation vacated by those employees of C.D.A. who have been allotted plots in Islamabad; that the C.D.A. Board had given time to those employees of the C.D.A. who had been allotted plots to move to their own houses; that the provisions of the Accommodation Allocations Rules, 2002, are applicable to the C.D.A.'s owned accommodation; that it is C.D.A.'s responsibility to provide accommodation to the petitioners; and that until alternative accommodation is allotted to the petitioners, they have a vested right to remain in occupation of the hostel. Learned counsel for the petitioners prayed for the writ petition to be allowed, and for the impugned notification dated 01.12.2016, to be set-aside.

6. Mr. M.A. Malik, Advocate, learned counsel for the petitioners in W.P. No.4660/2016 adopted the arguments of Mr. Abid Nazir Khan, Advocate for the petitioners in writ petitions No.4442/2016 and 4444/2016

7. On the other hand, Mr. Adil Aziz Qazi, Advocate, learned counsel for the C.D.A. submitted that rooms in the Officers' Hostel were temporarily allotted to the petitioners; that most of the petitioners did not adhere to the applicable rules governing stay in the Officers' Hostel; that the petitioner (Mohammad Saleem Khan) had made illegal construction in the room allotted to him; that the said petitioner had put heavy personal household items in the room allotted to him as well as the corridor; that he had also been cooking in the hostel room without prior permission; that the decision of the C.D.A. Board to revise/enhance room rent for the Officers' Hostel does not suffer from any illegality or impropriety; that the room rent was revised after the Ministry of Planning, Development and Reform had taken a decision in this regard on 04.05.2016; that prior to the decision of the C.D.A. Board on 11.11.2016, the room rent for the Officers' Hostel was enhanced on 04.04.1998; that since the utility bills of the said hostel were very high, therefore, an upward revision in the room rent was essential; that rules governing stay in the Officers' Hostel provide that the allotment of a room in the said hostel can be cancelled at any time without assigning any reason; that the said rules also provide that the

maximum period for which a room in the said hostel can be allotted is one year; that there is nothing preventing the competent authority from enhancing the room rent of the Officers' Hostel; that the Officers' Hostel is the only hostel in Islamabad which is owned by the C.D.A.; that the room rent of the Officers' Hostel is paid to the C.D.A. whereas room rents of other hostels in Islamabad are not; that the other hostels in Islamabad are only maintained by the C.D.A.; and that since the rooms at the Officers' Hostel are allotted temporarily to the petitioners, they do not have a vested right to occupy the said rooms for an indefinite period at the old rates. Learned counsel for the C.D.A. prayed for the writ petitions to be dismissed.

8. I have heard the contentions of the learned counsel for the contesting parties, and have perused the record with their able assistance.

9. The petitioners are primarily aggrieved by the decision taken by the Board of Directors in its meeting held on 11.11.2016 to enhance the room rent for the Officers' Hostel, F-5/2, Islamabad, to Rs.1,100/- per day for the C.D.A. officers. The petitioners are officers of the C.D.A. and assert that the enhancement in the room rent for the said hostel is unreasonable and discriminatory. They also assert that the C.D.A. Board has chosen to enahance the room rent for the Officers' Hostel only and not the other hostels managed and maintained by the C.D.A. in Islamabad.

10. It is not disputed that prior to the said decision dated 11.11.2016, the room rent for the Officers' Hostel was enhanced by the C.D.A. on 04.04.1998 (i.e. almost 18 years ago). The petitioners cannot expect for such antiquated rates to continue indefinitely. The petitioners' allotment letters on the record show that rooms in the Officers' Hostel were "temporarily" allotted to them. Indeed, such a temporary allotment does not give the petitioners a vested right to continue occupying the rooms allotted to them indefinitely at the rates fixed in the year 1998. The room rent for all the rooms in Officers' Hostel have been enhanced. The learned counsel for the petitioners could not dispute the assertion of the learned counsel for the C.D.A.

that the Officers' Hostel is the only hostel in Islamabad owned by the C.D.A. The other hostels are only maintained by the C.D.A. Even if there were other hostels owned by the C.DA., there was no obligation on the C.D.A. to uniformly increase the room rents of all the hostels. The room rent of a particular hostel will depend on its location and facilities provided to its occupants.

11. The petitioners who are officers working in the C.D.A. are deemed to be aware of the rules governing stay in the Officers' Hostel. These rules clearly provide that the C.D.A. has the right to cancel the allotment at any time without assigning any reason. These rules also obligate that the occupant of the room to vacate the same at a short notice if required by the C.D.A. Learned counsel for the petitioners could not point out to any provision in the C.D.A.'s laws which in any way barred the C.D.A. from enhancing the room rent for the C.D.A. hostel.

12. The contention of the learned counsel for the petitioners that the C.D.A. is under an obligation to provide accommodation to the petitioners commensurate to their pay scales has some force. If the terms and conditions of the petitioners' employment entitle the petitioners to residential accommodation, the C.D.A. must take steps in order to fulfill its obligation. The mere fact that the petitioners are biding their time to be allotted accommodation owned by the C.D.A. does not, in any manner, prevent the C.D.A. from enhancing the room rent of the Officers' Hostel.

13. In view of the above, I do not find any merit in these petitions, which are dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT On _____.

(JUDGE)

Ahtesham*

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