

# THE HIGH COURT OF SINDH, KARACHI

**Before:**

**Justice Mohammad Karim Khan Agha**

**Justice Adnan-ul-Karim Memon**

**CP No D-981 of 2020**

[Ms. Faiza Aleem v. Federation of Pakistan and others]

Petitioners : through Riaz Ahmed Phulpoto  
advocate

Respondent No.5 to 13 : through Mr. Talha Abbasi Advocate

Respondents No.1 to 4 : through Ms. Zehra Sehar, Assistant  
Attorney General

Dates of hearing : 07-05-2025

Date of order : 07-05-2025

## **ORDER**

**Adnan-ul-Karim Memon, J.,** The petitioner requests this court to declare the respondent Defence Housing Authority (DHA)'s actions illegal, discriminatory, and without legal validity. Additionally, she asks for a declaration affirming that the respondents' obstruction of her professional responsibilities as teacher staff, is unlawful.

2. The petitioner recounted her employment at Defense Housing Authority (DHA) MHS Phase-IV Karachi from her ad-hoc appointment in August 2014, contract in November 2014, and confirmation in March 2016. After three years of unblemished service, her request for two months' unpaid leave in December 2017 due to her father's illness and her special needs sister was largely denied. This led to a series of show-cause notices issued by DHA, in early 2018 for seeking a leave extension after 15 days, culminating in an inquiry that withheld an increment of the petitioner. Despite this, she faced further harassment in October 2018, leading to a complaint and a seemingly biased inquiry conducted by the DHA. Her ACRs were retroactively downgraded, resulting in financial penalties and hindering her career progression, all communicated verbally without written order. An appeal to the Administrator in February 2019 resulted in a reprimand for bypassing protocol of DHA approaching directly. Subsequent events in April 2019 included a degree verification, a verbal demotion order, a further ACR reduction, and placement under observation, prompting her to file an appeal to the Secretary DHA. She received another show-cause notice for the communication protocol as discussed supra. In July 2019, another degree verification was requested. Following a verbal warning about a letter to the Secretary DHA, she wrote to the Administrator alleging file manipulation and received another show-cause notice for protocol breach, followed by a "Recordable Warning," she claims

she never received the said orders. Further disciplinary actions included an advisory note and a departmental warning for minor issues in August and September 2019, and another advisory note in October. November 2019 saw the Principal tried to force her to accept an explanation letter for lateness, which she refused and reported. She received and replied to this explanation, followed by another "Recordable Warning." In early December 2019, the Principal pressured her to resign from service. After failing to get a response from the Director of Education DHA, she approached the Administrator. Subsequently, she received another show-cause notice for protocol violation and a departmental warning for not responding within 24 hours. In December 2019, she appealed to the Administrator again, alleging unfair treatment despite positive performance feedback. January 2020 brought a Final Show Cause Notice for poor performance with a one-day response time, which she contested and replied to. In February 2020, the Secretary of DHA verbally informed her of her impending termination from service, denying her a hearing. On February 7, she was forcibly barred from school premises, causing her distress and requiring medical attention. She alleged ongoing harassment with excessive disciplinary actions for minor issues, discriminatory treatment compared to other staff, and a deliberate attempt to remove her from job and school to favor junior employees. She claimed unfair removal from teaching Class IX, multiple show-cause notices for a single leave incident, clandestine negative file accumulation, a verbal termination order dated 10.02.2020 (produced by the DHA in the comments), and the Secretary DHA's assertion that DHA was/is above the law. She stated that punishments had already been applied and her service record was being fraudulently altered, causing her mental anguish and discrimination. She believed these actions were pre-planned to create grounds for her dismissal from service, involving vexatious notices and a hostile work environment, culminating in her illegal prevention from attending school.

3. The petitioner's counsel argued that the petition is maintainable because the petitioner was a confirmed employee of DHA (Respondent No. 5), a statutory body governed by its own rules. He cited the Supreme Court judgment in the case of Syed Nazir Gilani v Pakistan Red Crescent Society **2014 SCMR 982**, and DHA case **2013 SCMR 1707**, which established DHA as a "person" amenable to writ jurisdiction under Article 199 of the Constitution, particularly referring to principles laid down in paragraph 50, clauses (i), (iii), and (iv) of that judgment by arguing that it extends writ jurisdiction to public authorities even with non-statutory rules if those rules are violated (paragraph 8). He argued that the petitioner's services were verbally terminated on 10.02.2020 under DHA Service Rule 2008, without service serving. He emphasized that this termination letter dated 10.02.2020 was never given to her during her employment and was only

disclosed in the respondents' comments, without providing a copy for her defense. Counsel argued that this clause was misused whimsically, as the petitioner was neither given the required notice nor a hearing, and the termination order was passed behind her back with mala fide intentions to deprive her of her employment. Therefore, he requested that the impugned termination order if any be set aside and the petitioner be reinstated with full back benefits upon the changing scenario. Learned counsel for the petitioner argued that unlimited power conferred upon the DHA cannot be used for frivolous termination grounds. He emphasized that the respondent's intent to unlawfully dismiss from service is illegal and violates Article 10-A of the Constitution. He argued that employment terms allow for a three-month unpaid leave notice. However, no proper order was issued, no proper inquiry was conducted. Even show-cause notices were not legally sound. He further argued that the respondents acted beyond their authority as such their actions from the inception are illegal and violative of the fundamental rights of the petitioner. He argued that the respondents' approach was/is misconceived and irregular. He prayed to allow the petition.

4. The respondents refuted all claims of harassment, discrimination, and unfair treatment. Their counsel argued that the petitioner's contractual employment falls outside the constitutional jurisdiction of this court and that she dishonestly concealed her termination letter dated February 10, 2020 from this court, rendering the petition unmaintainable. While acknowledging her initial employment, she clarified that contractual employees are considered "regular" under DHA rules, and her confirmation was initially delayed due to poor performance. He vehemently denied the petitioner's account of her leave application and subsequent inquiry, asserting her unauthorized absence led to warnings and a withheld increment. Allegations of harassment and bullying her were denied, citing an incident where the petitioner allegedly slapped a child. He also denied unfair ACR downgrading and increment deductions, stating the Director acted within his authority due to her bad performance. The explanation letter for violating the chain of command was deemed justified. He contradicted her claim of not being asked for degree verification, stating she delayed submission of the degree. He added that the KG class reassignment was attributed to her habitual lateness. He also denied unfair APR reduction and humiliation, citing poor performance and false accusations, including alleged threats from her brother. While acknowledging show-cause notices for breach of channel and degree verification requests, he denied any victimization. The claim of being verbally informed about a letter to the Secretary DHA was dismissed as fabricated, and her direct appeal was deemed a violation of protocol. He argued that she received fair hearings and warnings for habitual lateness and policy violations. He argued that the allegation of forced resignation and

unresponsiveness from the Director was also denied. Ultimately, the respondents characterized the petitioner as a problematic employee with a history of misconduct, justifying their actions of terminating her services in 2020. He prayed for dismissal of the instant petition.

5. We have heard the learned counsel for the parties at considerable length and have perused the record and case law cited at the bar.

6. Admittedly, the respondent authority is a statutory body established under the Pakistan Defense Officer Housing Authority Ordinance, 1980, and the rules framed thereunder are non-statutory rules of service only dealing with instructions for internal control and management of DHA, which are treated as non-statutory rules of service. In the present case, the petitioner seeks enforcement of Service Rules 2008, which is not possible for this Court to enforce the Service Rules of the respondent DHA under Article 199 of the Constitution as the Supreme Court has barred the jurisdiction of this Court in DHA service matters through the DHA is person in terms of Article 199 (5) of the Constitution, however service issues having no backing of statutory law can not be enforced in terms of writ of mandamus or certiorari. On the aforesaid proposition, we are guided by the decision rendered by the Supreme Court of Pakistan in the case of Pakistan Defense Officers Housing Authority vs. Mrs. Itrat Sajjad Khan and others, **2017 SCMR 2010**.

7. If this is the position of the case, the petitioner can approach the civil court, as the Civil courts are the primary forum for resolving disputes arising from contracts, including employment contracts. They have the jurisdiction to examine the terms of the agreement, hear evidence, and award remedies for breach of contract. The petitioner's claim falls squarely within the purview of civil courts, which can pass appropriate order on the subject matter if deemed the impugned order unlawful, as the termination of the contract occurred on 10.02.2020, whereas the subject petition was filed two days after such termination order, though petitioner claims not received. This dispute can also be decided by the competent court as the lis could be in continuation of the proceedings.

8. Considering the aforementioned facts and circumstances, and without touching the merits of the case, this petition is dismissed, allowing the petitioner to seek resolution for her grievances through a court with full jurisdiction, in accordance with the law, if she chooses to do so.

JUDGE

HEAD OF CONST. BENCHES

SHAFI