

Judgment Sheet
IN THE FEDERAL SERVICE TRIBUNAL, LAHORE.

Appeal No.214(L)CS/2012

Date of institution :	26.06.2012
Date of hearing :	21.11.2014
Date of Judgment :	21.11.2014

Appellant : Munawar Hussain
Stenographer,
O/o Additional Commissioner Inland Revenue,
Regional Tax Office) Lahore.

Respondents : 1. The Chief Commissioner, Inland Revenue,
Regional Tax Office, Lahore.
2. The Additional Commissioner (Headquarters)
Regional Tax Office-II, Lahore.
3. The Member (Administration)
Federal Board of Revenue, Islamabad.
4. The Secretary, M/o Housing and Works,
Government of Pakistan, Islamabad.



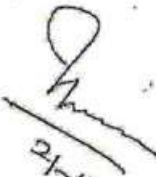
Before : Kazi Afaq Hossain and
Syed Nasir Ali Shah, Members.

Present : Munawar Hussain appellant with his counsel
Mian Mahmood Hussain, Advocate.
Mr. Saeed ur Rehman Dogar, Advocate
Counsel for the respondents.

JUDGMENT

SYED NASIR ALI SHAH, MEMBER : This appeal under Section 4 of the Federal Service Tribunal Act, 1973 is directed against the order dated 14.2.2012 whereby requisition facility granted to the appellant for his house located in Muridke was cancelled and the departmental representation dated 8.3.2012 made by the appellant against the said order was not responded.

2. Facts giving rise to this appeal need to be traced and glanced through. Succinctly put, the appellant was working as Stenographer in the Office of Additional Commissioner Inland Revenue Lahore. He applied for facility of house requisition of his house located in Muridke. After due process the said facility was granted to appellant on 21.11.2006 for a period of three years. Thereafter this facility was extended to him for another period of one year. However on 14.2.2012 the respondent No.2 addressed a letter to the appellant wherein it was


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intimated that as per clarification received from the M/o Housing and Works, Islamabad (Respondent No.4) vide their letter No.10(7)Exp.Bud-HQ/05(Estate) dated 23.5.2011 hiring of houses in Muridke is not allowed as per rules. Thus lease agreement already executed by the respondent No.2 in favour of the appellant was cancelled with immediate effect. Driven by this the appellant made representation dated 8.3.2012. In the said representation it was inter alia maintained that for all intents and purposes Muridke is part of Lahore. It was amplified that CBR defined the area of Lahore for Capital Value Tax as 30 K.M whereas Muridke is 24 K.M from Lahore. It was also maintained that various departments like Wapda, PMG etc. had already acquired houses in Muridke duly approved by the Works Department. It was further maintained that house rent and conveyance allowance are admissible in Muridke being suburb of Lahore as per approval of Finance Division. It was further mentioned that as per notification of Government of Punjab dated 19.5.1975 Muridke was included in Lahore Metropolitan Corporation. As mentioned above the aforesaid departmental representation of the appellant remained un-responded.

3. Against such a ticklish backdrop the appellant brought the aforesaid appeal. The plank of the appellant's case is that in pursuance of decentralization policy vide Notification dated 21.7.2004 issued by the M/o Housing and Works, Government of Pakistan, Islamabad the said Ministry had ceased to have any seisin and control over the requisition of houses and as such the clarification issued by the said Ministry, on the basis of which the impugned order was passed, is illegal and unwarranted. It is also his case that Muridke is part of Lahore.

4. The appeal was resisted by the respondents by maintaining that the same is premature. On merit it was maintained that as per policy of the Ministry the facility of requisition of houses in Muridke was cancelled.

5. We have heard the learned counsel for the parties and perused the available record with their assistance.



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6. As is discernible from the impugned order dated 14.2.2012 hiring facility granted to the appellant was cancelled in pursuance of the clarification received from the M/o Housing and Works, Islamabad vide their letter No.(7)Exp.Bud-HQ/05(Estate). Thus what falls for determination is whether Ministry of Housing and Works Islamabad could lawfully advise, clarify or direct the respondent No.1 to 3 to cancel the hiring facility already granted and thereafter extended to the appellant in Muridke; whether such a clarification was binding upon the respondent No.1 to 3 and whether the latter lawfully cancelled the hiring facility already granted to the appellant and whether Muridke forms part of Lahore Metropolitan Corporation for the purposes of hiring facility.



7. It is pertinent to mention that notification No.F.2(3)/2003-Policy dated Islamabad, 13th May, 2004 issued by Ministry of Housing of Works, Government of Pakistan, Islamabad is explicit and unambiguous. It unmistakably provides that Government had decided to decentralize with effect from 1.7.2004, the present system of hiring of residential accommodation by Estate Offices and henceforth the Estate Office shall not hire any new house with effect from 1.7.2004 and the responsibility of hiring residential accommodation for their employees within their budgetary resources had been transferred to the Ministries/Divisions/Departments. This being so after 31st July, 2004 the said Ministry had ceased to have any role in the hiring of residential accommodation and consequently was not clothed with any authority to issue any direction or clarification. As noted above facility of hiring of residential accommodation was granted to the appellant on 21.11.2006, much after the issuance of the aforesaid notification dated 31.7.2004. This being so the clarification as incorporated in the impugned order referred to above on the basis of which the hiring facility of the appellant was cancelled was unlawful, unauthorized, unwarranted and bereft of any authority.

8. This brings us to the second segment of the controversy, whether for the purposes of hiring facility, Muridke is a part of Lahore. On the record there is a notification dated 29th May, 1975 issued by the Government of Punjab, Housing and Physical Planning Department, Lahore. In it the boundaries of Lahore Metropolitan Corporation were

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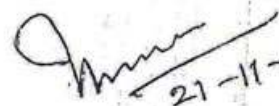
shown beyond Muridke. It is thus abundantly clear that Muridke is a part of Lahore. Not only this scores of Federal Government Departments are shown to have granted hiring facilities to their employees in Muridke. This being so we are of the considered view that for the purposes of hiring facility Muridke is a part of Lahore.




9. For the foregoing reasons we accept this appeal and thereby set-aside the impugned order 14.2.2012. Consequently the appellant is found entitled to have hiring facility of his house in Muridke. Parties are left to bear their own costs.

10. Parties be informed accordingly.


MEMBER


MEMBER
21-11-2014

Lahore the
21st November, 2014.

Certified to be a true copy

(Rashid Ahmad Siddiqui)
Assistant Registrar
Federal Service Tribunal
Lahore

Handwritten notes in Urdu: "فصلہ N FST لاہور" and "پریا ڈکلیئرنگ" with a checkmark.

No. 92/

FEDERAL SERVICE TRIBUNAL, LAHORE BENCH,
1-Fano Road, Lahore.

Dated 25/11/14

To,
✓ Mr. Munawar Hussain, Stenographer,
op Additional Commissioner, Inland Revenue,
Regional Tax office, Lahore.



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NOTICE

SUBJECT: COPY OF THE ORDERS PASSED BY THE TRIBUNAL IN APPEAL NO. 214 (L) CS-12
FILED BY: Munawar Hussain
AGAINST: Inland Revenue

A certified copy of the order passed by the Tribunal in the above noted case is sent herewith for information.

By order

Handwritten signature of Rashid Ahmad Siddiqui

(RASHID AHMAD SIDDIQUI)
ASSTY REGISTRAR

COPY TO

1. The Secretary Establishment Division, Islamabad.
2. The Solicitor, Justice Division, Islamabad.
3. The Chief Commissioner, Inland Revenue, R.T.O, LHR.
4. The Additional Commissioner, (Head quarters) Regional Tax office-II, LHR
5. The Member, (Administration) FBR, Id
6. The Secretary, P. to Housing & Works, Govt of Pakistan, Islamabad.

(RASHID AHMAD SIDDIQUI)