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IN THE ISLAMABAD HIGH COURT, ISLAMABAD

3388

WRIT Petition No. ____ of 2026

Khalid Mahmood Son of Inayat Ali, resident of Saraye Kharbooza, P O Box Golra Sharif, Islamabad

...Petitioner

VERSUS

1. Federation of Pakistan Through the Secretary, Ministry of Interior and Narcotics Control, Government of Pakistan, Islamabad.
2. Federation of Pakistan Through the Secretary, Cabinet Secretariat, Establishment Division, Government of Pakistan, Islamabad.
3. Capital Development Authority (CDA) Through its Chairman, CDA Headquarters, G-7/4, Islamabad.
4. Mr. Zaman Wattoo, Member (Estate), Capital Development Authority, CDA Headquarters, G-7/4, Islamabad.

...Respondents

Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking issuance of a Writ of Quo Warranto.

May it Please My Lord,

1. The Petitioner is a Pakistani national and permanent resident of Islamabad. The present petition is being instituted in the nature of a writ of **quo warranto** under Article 199 of the Constitution to examine the lawful authority under which Respondent No.4 is holding the statutory office of Member (Estate), Capital Development Authority ("CDA").

2. The office of Member, Capital Development Authority is a statutory public office created under Section 6 of the Capital Development Authority Ordinance, 1960. The holder of such office exercises statutory and executive powers affecting valuable public rights and interests. The legality of such appointment is therefore amenable to judicial review through issuance of a writ of quo warranto.
3. That vide Notification No. 1/58/2020-E-6 dated 06.04.2026, issued by the Establishment Division, Cabinet Secretariat, Government of Pakistan, Respondent No.4, namely Mr. Zaman Wattoo, a retired PMS Officer of the Government of Punjab, has been appointed as Member (Estate), Capital Development Authority, on contract basis with immediate effect until further orders.
(Copy of the notification is attached as Annex- A)
4. That the impugned notification merely states that the appointment has been made "in terms of Section 6 of the Capital Development Authority Ordinance, 1960." The notification, however, does not disclose the process adopted by the Federal Government, the criteria applied, the material considered, the approval obtained from the competent authority, or compliance with the statutory and executive framework governing appointments to statutory autonomous bodies.
5. Although Section 6 of the Capital Development Authority Ordinance empowers the Federal Government to appoint Members of the Authority, such statutory power is not absolute or unfettered. Every exercise of statutory power must conform to the Constitution, the parent statute, the Rules of Business, 1973, and all applicable executive policies and procedures regulating appointments to public offices.
6. The office of Member (Estate), CDA, is not a routine contractual employment but a statutory office carrying substantial executive and administrative authority over public property, land administration and statutory functions entrusted to the Authority under the Capital Development Authority Ordinance, 1960.
7. That the appointment of Respondent No.4, being a retired officer, appears to have been made on contract basis. However, neither the impugned notification nor any material placed in the public domain demonstrates the legal basis, policy, eligibility criteria, or

procedure under which a retired officer was selected and appointed to a statutory office created by law.

8. That the Petitioner has been unable to find any material demonstrating that the mandatory governmental procedure governing appointments to autonomous statutory bodies has been followed. The respondents alone are in possession of the complete appointment record, including the initiating summary, inter-departmental consultations, comments of the Establishment Division, approval of the competent authority, contractual terms and conditions, and all documents evidencing compliance with the applicable legal framework.
9. That the respondents are under a constitutional obligation to establish that the appointment of Respondent No.4 has been made strictly in accordance with law. Unless such lawful authority is demonstrated before this Honourable Court, Respondent No.4 cannot legally continue to occupy the statutory office of Member (Estate), CDA.
10. That this petition is therefore being filed to invoke the constitutional jurisdiction of this Honourable Court for issuance of a writ of quo warranto directing Respondent No.4 to show the lawful authority under which he continues to hold the office of Member (Estate), Capital Development Authority.

GROUNDS

A. Because the office of **Member (Estate), Capital Development Authority** is a statutory public office created under Section 6 of the Capital Development Authority Ordinance, 1960. The holder of the said office exercises statutory, executive and administrative powers affecting public rights, public property and the discharge of public functions entrusted to the Authority. It is, therefore, a public office amenable to the constitutional jurisdiction of this Honourable Court under Article 199 through issuance of a writ of **quo warranto**, whereby the holder of such office is required to establish the lawful authority under which he occupies the same.

B. Because Section 6 of the Capital Development Authority Ordinance, 1960 undoubtedly empowers the Federal Government to appoint Members of the Authority. However, the conferment of statutory power does not render its exercise absolute, arbitrary or beyond judicial review. Every statutory discretion must be exercised in accordance with the Constitution, for lawful purposes, upon relevant considerations and in conformity with the principles of legality, fairness, transparency and good governance. The respondents are therefore under a legal obligation to demonstrate that the impugned appointment was made in accordance with the applicable statutory and executive framework governing appointments to statutory public offices.

C. Because the impugned Notification No. 1/58/2020-E-6 dated 06.04.2026 merely records that Respondent No.4 has been appointed "in terms of Section 6 of the Capital Development Authority Ordinance, 1960" on contract basis with immediate effect. The notification, however, does not disclose the process adopted for such appointment, the objective criteria applied, the material considered by the appointing authority, the approval obtained from the competent authority or the legal basis upon which the appointment on contract basis has been made to a statutory office. Mere issuance of a notification cannot by itself establish lawful exercise of statutory power.

D. Because the office of Member (Estate), CDA is not an ordinary contractual employment but a statutory office created by law. Such an office carries substantial executive, administrative and regulatory powers. Consequently, appointments to such offices demand strict adherence to constitutional standards of fairness, transparency and institutional integrity. Any departure from the governing legal framework renders the appointment liable to judicial scrutiny.

E. Because Section 6 of the Capital Development Authority Ordinance prescribes the appointing authority but does not provide an independent procedure regulating the manner in which such statutory appointments are to be processed. The exercise of such statutory power cannot, therefore, take place in a legal vacuum. The respondents remain bound to act in accordance with the Rules of Business, 1973, applicable executive instructions, governmental policy and settled constitutional principles regulating

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appointments made by the Federal Government. The burden squarely rests upon the respondents to establish that such procedure was duly followed in the instant case.

F. Because the respondents have failed to place before the public any material demonstrating compliance with the applicable executive framework governing appointments to autonomous statutory bodies. No material has been disclosed indicating the initiating summary, inter-departmental consultations, comments of the Establishment Division, approval of the competent authority, comparative assessment, objective criteria or any other record demonstrating that the impugned appointment was processed in accordance with law. In the absence of such a record, the legality of the appointment remains open to judicial review.

G. Because Respondent No.4 has admittedly been appointed on contract basis. The impugned notification refers to "standard terms and conditions", yet neither the said terms and conditions nor the authority approving the same have been disclosed. The respondents have failed to demonstrate the legal framework governing contractual appointment to the statutory office of Member (Estate), CDA. The complete appointment record, including the contract executed with Respondent No.4, is therefore liable to be produced before this Honourable Court.

H. Because Respondent No.4 is admittedly a retired officer of the Government of Punjab. The appointment of a retired officer to a statutory public office necessarily requires strict adherence to the applicable governmental policy, objective standards and lawful procedure. The respondents have failed to disclose any material demonstrating compliance with such policy or explaining the basis upon which the appointment of a retired officer was considered appropriate in the facts and circumstances of the case.

I. Because appointments to statutory public offices are held in trust for the people and not for the personal benefit of any individual. The Constitution requires that public power be exercised in a manner which is fair, transparent, reasonable and free from arbitrariness. Any appointment made in disregard of these constitutional requirements cannot enjoy immunity merely because the appointing authority possesses statutory power to make the appointment.

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J. Because the legality of an appointment to a statutory public office is not determined merely by the existence of an appointment notification but by the legality of the process through which such appointment has been made. The respondents have failed to disclose any material demonstrating that the statutory power under Section 6 was exercised after due consideration of the applicable legal requirements. In proceedings for issuance of a writ of **quo warranto**, the respondents are under an obligation to establish the lawful authority under which Respondent No.4 continues to occupy the office.

K. Because the respondents alone are in possession of the complete appointment file, including the initiating summary, noting sheets, inter-ministerial correspondence, recommendations, approvals of the competent authority, contractual terms and conditions, and all documents evidencing compliance with the Rules of Business, 1973 and the applicable executive framework governing appointments by the Federal Government. Unless such record is produced before this Honourable Court, an adverse inference is liable to be drawn against the legality of the impugned appointment.

L. Because the impugned appointment, having been made without disclosure of the procedure adopted, objective criteria applied or compliance with the applicable constitutional and executive framework governing appointments to statutory public offices, is arbitrary, non-transparent and violative of Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973, rendering Respondent No.4 liable to justify his authority to hold the office through a writ of **quo warranto**.

M. Because the respondents have failed to demonstrate that the impugned appointment satisfies the constitutional requirements of legality, transparency, fairness and institutional accountability. In these circumstances, the continued occupation of the office of Member (Estate), Capital Development Authority by Respondent No.4 cannot be presumed to be lawful unless the respondents establish, through production of the official record, that the appointment has been made strictly in accordance with the Constitution, the Capital Development Authority Ordinance, 1960, the Rules of Business, 1973 and the applicable executive framework governing appointments to statutory public offices.

O. Because Respondent No.4 is admittedly a retired officer who has been appointed to a statutory public office notwithstanding the existence of a fully operational institutional framework within the Capital Development Authority comprising serving officers possessing experience in the affairs of the Authority. While the law may not impose an absolute prohibition upon the appointment of a retired officer, such departure from the normal institutional framework necessarily demands a higher degree of transparency, objectivity and justification. The respondents are, therefore, required to establish through cogent material and strict proof the exceptional circumstances, qualifications, expertise or specialized experience possessed by Respondent No.4 which were unavailable within the serving cadre of the Capital Development Authority, thereby necessitating his appointment over serving officers. In the absence of such demonstrable justification, the impugned appointment constitutes arbitrary exercise of executive discretion, offends the constitutional guarantees of equality, equal protection of law and non-discriminatory treatment under Articles 4 and 25 of the Constitution, and is liable to be declared without lawful authority.

N. Because the Capital Development Authority is a specialized statutory organization with an established hierarchy of serving officers possessing institutional knowledge, technical expertise and administrative experience in the functioning of the Authority. Such officers have a legitimate expectation that appointments to the highest statutory offices within the Authority shall be made through a transparent, objective and merit-based process in accordance with law. The appointment of an individual from outside the Authority after retirement, without disclosure of any objective criteria, comparative evaluation or transparent selection process, raises a serious issue of arbitrariness and unequal treatment, thereby attracting judicial scrutiny under Articles 4 and 25 of the Constitution.

PRAYER

In view of the foregoing, it is respectfully prayed that this Honourable Court may graciously be pleased to:

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a. Issue a writ of **quo warranto** declaring that Respondent No.4 has failed to establish lawful authority to hold the office of Member (Estate), Capital Development Authority, and consequently declare the impugned appointment notification dated **06.04.2026** to be without lawful authority and of no legal effect.

b. Direct Respondents No.1 to 3 to produce the complete appointment record, including the initiating summary, noting sheets, inter-departmental correspondence, approvals of the competent authority, contractual terms and conditions, and all documents demonstrating compliance with Section 6 of the Capital Development Authority Ordinance, 1960, the Rules of Business, 1973, and the applicable executive framework governing appointments to statutory public offices.

c. Declare that Respondent No.4 is not entitled to continue exercising the powers and functions of Member (Estate), Capital Development Authority unless and until his appointment is shown to have been made strictly in accordance with law.

d. Grant any other relief deemed just, equitable and appropriate in the circumstances of the case.

Through Counsel

Qasim Abbasi
Barrister Qasim Nawaz Abbasi

Advocate High Court
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Raja M Ali Abbas Jalap
Barrister Raja M Ali Abbas Jalap

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