

**RETENTION OF HIGHER CATEGORY ACCOMODATION –  
UNDER RULE 15 (2) B.**

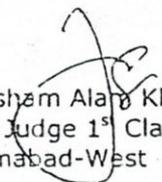
**SUPEREME COURT JUDGMENT SCMR 2010 1537**

gap period of four years and 7 months approximately, therefore, plaintiff has not come in to the regular service within the period specified in Rule 15 (2) of AAR 2002. Apart from this, the plaintiff is also not entitled for the allotment of suit accommodation because he is serving in BPS-17, while the suit quarter is one category above his entitlement. In this regard I rely upon the SCMR 2010 1537.

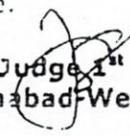
"In SCMR 2010 1537 in case titled as "Federation of Pakistan Vs. Abrar Ahmed and others" it was held by their lordship that "in case serving spouse or children of retired servant, if eligible and otherwise become entitled for accommodation within a period of six months, could retain same accommodation and in case accommodation was higher than their entitlement, they might apply in writing for allotment in accordance with their eligibility in lieu of occupied accommodation, but would not be entitled to retain accommodation of higher category than their entitlement after six months of retirement of their predecessor"

7. In sequel to above discussion, no relief can be granted to the plaintiff at the end of trial as the plaintiff has no cause of action to file the instant suit, further trial would be a futile exercise. It is well settled principle of law that as soon as the cause appears for rejection, the plaint should be rejected straightaway and such a suit should be taken off the file at its very inception to relieve a defendant of vexatious litigation, as the notice under Order VII Rule 11 CPC has already been given to the plaintiff, hence his plaint is also rejected U/o VII Rule-11 CPC. No order as to costs. Decree sheet be prepared accordingly. File be consigned to the record room, after its due completion.

Announced  
28.10.2015

  
Ihtasham Alam Khan,  
Civil Judge 1<sup>st</sup> Class,  
Islamabad-West

CERTIFIED that this order consists three pages, each of which has been dictated, read over corrected and signed by me.

  
Civil Judge 1<sup>st</sup> Class,  
Islamabad-West