

23.01.2019 Learned counsel for the appellant Dr. Gul-e-Rana appeared and stated that he had instituted appeal No.987/2018 against the posting transfer order dated 30.04.2018. However without his knowledge the appellant has filed second service appeal No.1033/2018 on 17.08.2018 against the same impugned order. File requisitioned. To come up alongwith service appeal No.987/2018 also filed by the appellant on 25.01.2019 before S.B



Member

25.1.2019

Mr. Muhammad Adnan Sher Advocate for appellant and Addl. AG alongwith Hazrat Shah Superintendent for the respondents present.

The representative of respondents has produced copy of notification dated 30.08.2018, whereby the appellant has been transferred from PMO B.S 19 DHQ Hospital, KDA Kohat to Medical Superintendent Liaqat Memorial Hospital, Kohat. The same is placed on file.

In view of the development the appeal in hand appears to have become infructuous, therefore, is disposed of as such. File be consigned to record room.



Chairman

Announced:  
25.1.2019

23.11.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Jaffar Ali, Assistant for the respondents present. Written reply not submitted. Learned Additional AG requested for adjournment. Adjourned. To come up for written reply/comments on 13.12.2018 before S.B.

  
Muhammad Amin Khan Kundi  
Member

13.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Hazrat Shah, Superintendent and Mr. Jaffar Shah, Assistant for the respondents present. Written reply not submitted. Learned Additional AG requested for further adjournment. Last opportunity is granted. Adjourned. To come up for written reply/comments on 22.01.2019 before S.B.

  
Muhammad Amin Khan Kundi  
Member


22.01.2019

Junior to counsel for the appellant present. Written reply not submitted. Hazrat Shah representative of the respondent department present and seeks adjournment to furnish written reply/comments. Granted. To come up for written reply/comments for ~~25.1.19~~ before S.B.

  
Member

02.10.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for official respondents No. 1 to 3 and private respondent No. 4 in person present. Written reply on behalf of respondents not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 29.10.2018 before S.B. In the meanwhile status-quo be maintained till the date fixed.

  
(Muhammad Amin Khan Kundi)  
Member

29-10-18

due to the Retirement of Honorable  
Chairman the Tribunal is nonfunctional  
therefore the case is adjourned to  
come up for the same on 12-11-2018

  
Reader

12.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 23.11.2018. Written reply not received.

  
READER


Appeal No. 1033/2018  
Dr. Gul-e-Rana vs Govt

24.08.2018

Counsel for the appellant Dr. Gul-e-Rana present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Health Department as Medical Superintendent in Women and Children Hospital in management cadre since 29.11.2016. It was further contended that the appellant was transferred from the said post i.e Medical Superintendent Liaquat Memorial Hospital Kohat to DHQ Hospital Kohat against the vacant post of PMO (BPS-19) vide order dated <sup>m</sup>25.04.2018. It was further contended that the appellant filed departmental appeal on 30.04.2018 but the same was not responded despite direction by the worthy Peshawar High Court in the stipulated period hence, the present service appeal on 17.08.2018. It was further contended that the appellant was transferred against the Transfer/Posting Policy as the normal period of two years was not completed. It was further contended that the appellant was transferred on political influence as Class-IV employee was appointed by the appellant and due to some political influence departmental proceeding was initiated on that basis but later on the inquiry officer exonerated her vide order dated 13.02.2018 and due to that reason the appellant was transferred politically. It was further contended that the appellant was serving in Management Cadre but she was transferred to General Cadre against the Health Management Service Rules, 2008. It was further contended that the appellant has not relinquish the charge so far therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter, notice be issued to the respondents for written reply/comments for 02.10.2018 before S.B. Learned counsel for the appellant also submitted application for suspension of impugned notification dated 25.04.2018. Notice of the same be also issued to the respondents for the date fixed. In the meanwhile status-quo be maintained till the date fixed.



Appellant Deposited  
Security & Process Fee

  
(Muhammad Amin Khan Kundi)  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1033/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/08/2018  18-8-2018	<p>The appeal of Dr. Gul-e-Rana presented today by Mr. Muhammad Adnan Sher Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 17/8/18</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24-8-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No: 1033/2018

Dr. Gul-e-Rana

**VERSUS**

Govt of KP & Others

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S. No	Documents	Annexure	Page No.
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2.	Application for Suspension	--	07
3.	Affidavit		08
4.	Copies of the Notification dated 29.11.2016 and Charge Certificate " <u>A</u> " & " <u>A-1</u> " r	" <u>A</u> ", " <u>A-1</u> "	9-10
5.	Copy of Notification dated 13.02.2018	" <u>B</u> "	11
6.	Copy of <i>impugned Notification</i> & Ban Notification dated 31.07.2018	" <u>C</u> ", " <u>C-1</u> "	12-13
7.	Copy of the departmental appeal	" <u>D</u> "	14
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9.	Copy of the Notification dated 25.06.2018	" <u>F</u> "	20
10.	<i>Wakalatnama</i>		

Dated: \_\_\_\_\_, 2018

Through

*Gul-e-Rana*  
APPELLANT

*Muhammad Adnan Sher*  
MUHAMMAD ADNAN SHER  
Advocate High Court, Peshawar

①

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No: 1033/2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1302

Dated 17-8-2018

**Dr. Gul-e-Rana**

Presently Posted as Principal Medical Officer (PMO)  
District Headquarter (DHQ) Hospital KDA, Kohat

..... APPELLANT

**VERSUS**

**1. Government of Khyber Pakhtunkhwa**

Through Chief Secretary KP  
Civil Secretariat, Peshawar

**2. Secretary Health (Khyber Pakhtunkhwa)**

Civil Secretariat, Peshawar

**3. Director General Health (KP)**

Civil Secretariat, Peshawar

**4. Dr. Naeem Shah**

MS Liaqat Memorial Hospital, Kohat

..... RESPONDENTS

-----  
**SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974**  
-----

Respectfully Sheweth;

Filed to-day  
Registrar  
17/8/18

1. That the appellant is Senior Member Health Services (Management Cadre) in the Health Department Khyber Pakhtunkhwa and was posted as Medical Superintendent Women and Children Liaqat Memorial Hospital (hereinafter referred to as **LMH**) Kohat on 29.11.2016 and took charge of her office as MS on 05.12.2016. (Copies of the Notification dated 29.11.2016 and Charge Certificate are hereby annexed as Annexures "**A**" & "**A-1**" respectively).

2. That the appellant was performing her duties in **LMH** with devotion, sincerity and uprightness and earned a good reputation because of her efficiency and hard work in imparting her medical expertise in short span of time however in the mean while, some posts of Class-IV fell vacant in the year 2017 in **LMH** and so due process of law was adopted for fulfillment of these vacancies.
3. That with the news of vacancies of Class-IV in **LMH**, the local political elite became astir so as to get maximum output in the upcoming elections of 2018 and for the same reason, the agonies of the present appellant began when she was approached through different channels and wire pulling by the same political elite for the purpose of appointing and accommodating their blue eyed ones on these vacant posts of Class-IV in **LMH**, Kohat and the same fact is disclosed from the departmental appeal of the present appellant.
4. *Without prejudice to the above and in addition thereto*, the appellant was even threatened with dire consequences for not making favorable appointments to the said posts of Class-IV, however, despite this fact, the appellant stood determined and fearless and without caring for any threats and political approach, fulfilled the vacant posts of Class-IV on merit and in accordance with law.
5. That thereafter, the appellant was made subject to political victimization when an inquiry was held against the appellant to probe into the charges of illegal appointment of Class-IV in **LMH**, however as such charges were just politically motivated, the inquiry officers/ committee discarded and did not approve of the charges in inquiry report and on the basis of this inquiry report, *vide* Notification No. SOH(E-V)7-178/2018 dated 13.02.2018, the appellant was exonerated from all such baseless charges by the Competent Authority(Copy of the (Copy of Notification dated 13.02.2018 is hereby annexed as Annexure "**B**").
6. *Without prejudice to the above and in addition thereto*, the appellant did not surrender to the undue political influence of the annoyed political elite and continued to perform her duties as MS in **LMH** however, the appellant was later on transferred from the said post *vide* Notification No. SOH(E-V)7-172 dated 25.04.2018 to the post of PMO DHQ Hospital, Kohat (*hereinafter referred to as impugned Notification*). It is pertinent to mention at this juncture that the *impugned Notification* was issued despite



the fact that ban was imposed on posting/ transfer. (Copies of *impugned Notification* and Ban Notification dated 31.07.2018 are hereby annexed as Annexures "C" & "C-1" respectively).

7. That the appellant being aggrieved by the *impugned notification*, filed departmental appeal to the authority however the same remained undecided (Copy of the departmental appeal is hereby annexed as Annexure "D") and this attitude forced the appellant to approach hon'ble Peshawar High Court, Peshawar in W.P No. 2390-P/ 2018 whereby *vide* judgment dated 30.05.2018, the departmental authority was directed by the hon'ble Court to decide the departmental appeal of the petitioner/ appellant within one month after passing of judgment however till date appeal is yet to be decided.(Copy of the judgment dated 30.05.2018 is hereby annexed as Annexure "E").
8. *Without prejudice to the above and in addition thereto*, in pursuance to directions of hon'ble Peshawar High Court, Peshawar in its judgment dated 30.05.2018, a Notification dated 25.06.2018 was issued by Respondent No. 2 admitting the fact in the said Notification that appellant's departmental appeal is based on merit however Election Commission has imposed ban on posting/ transfer and the summary to the acceptance of appeal and for the posting back as MS **LMH** will be moved to the Chief Minister KP within next three working days but till date the respondent/ respondents concerned are willfully and intentionally adopting delaying tactics one way or the other in implementing directions of hon'ble Peshawar High Court and deciding the department appeal. (Copy of the Notification dated 25.06.2018 is hereby annexed as Annexure "F").
9. That the appellant being aggrieved by the action of respondent/ respondents concerned and having no other alternate, sufficient or efficacious remedy, files instant appeal *inter alia* on the following grounds;

**GROUND:**

- I. That the *impugned notification* is absolutely void, illegal and against the vested right of the appellant, hence liable to be struck down at once.

- II. That the *impugned notification* is otherwise not tenable in the eyes of law as the same is based on political victimization and influence and therefore *void ab initio*.
- III. *Without prejudice to the above and in addition thereto*, the said *impugned Notification* has been issued without any cogent reason despite the fact that the appellant has been exonerated from baseless charges by the Competent Authority but even then issuance of the *impugned Notification* clearly establishes the fact of political interference in the transfer of the present appellant.
- IV. *Without prejudice to the above and in addition thereto*, the appellant has been transferred as Principal Medical Officer (PMO) which is the post of General Cadre and not of Management Cadre whereas the appellant belongs to Management Cadre and she could not be transferred to any post other than that of post of Management Cadre and therefore the *impugned Notification* is against the law and Rules.
- V. *Without prejudice to the above and in addition thereto*, it is also pertinent to mention that the appellant has not yet relinquished charge from the post of MS LMH as the appellant is bound to obey the law and not the political whims or illegal orders and the *impugned Notification* is based on ulterior motives therefore has no legal backing to it and liable to be struck down.
- VI. *Without prejudice to the above and in addition thereto*, the *impugned Notification* is otherwise against the law as the same was issued when the Election Commission of Pakistan had imposed ban on the posting/ transfer in view of section 230 (2) (e) & (f) of Elections Act, 1979 and the same fact has been admitted to by Respondent No.2 in Notification dated 25.06.2018 and this dual standard by the respondent/ respondents concerned is not at all warranted by law.
- VII. That despite the fact that the appellant has an unblemished service record and satisfactory performance throughout her career, issuance of the *impugned Notification* transpires malafide and ulterior motives of the respondent/ respondents concerned and therefore the same is liable to be set aside at the very outset.
- VIII. That even otherwise, the respondent/ respondents concerned are unwilling to implement the clear cut directions of the honb'le High

Court, Peshawar in its judgment dated 30.05.2018 which act of the respondent/ respondents concerned leaves no doubt that the appellant is intentionally penalized and punished for his upright and honest character which is not warranted by law at all.

- IX. *Without prejudice to the above and in addition thereto*, before the appellant could have completed her mandatory period of two years on the post of MS, she was transferred from the said post and this ground alone is sufficient for setting aside the *impugned Notification* as the same is in violation of Government own policy.
- X. *Without prejudice to the above and in addition thereto*, the respondents have violated the principle of natural justice i.e. "*audi altrem partem*" while issuing the *impugned Notification* as she has not only been condemned unheard but no opportunity of personal hearing whatsoever was given and the same is therefore not maintainable.
- XI. *Without prejudice to the above and in addition thereto*, the treatment meted out the present appellant on account of her keeping and promoting merit in appointments on vacant posts would otherwise discourage the officials of other departments to stick to promoting merit and surrender to illegal and unjustified demands of outsiders which would in general be a havoc to the society and justice demands that the *impugned Notification* be trashed out.
- XII. *Without prejudice to the above and in addition thereto*, it is admitted fact by the respondent/ respondent concerned that the department appeal of the appellant is based on merit and to be posted back as MS **LMH**, but even then not deciding the same leaves no doubt in one's mind that the same *impugned Notification* has been issued not in accordance with law.
- XIII. That it is the duty of every citizen of Pakistan to maintain loyalty to the State and Obedience to the Constitution and law however in the present case, the appellant is penalized and made to suffer on account of her obedience to law rather than political whims and therefore, the *impugned Notification* is nullity in the eye of law.
- XIV. That the Constitution of Pakistan, 1973 guarantees the fundamental right to every citizen to be treated in accordance with law however

issuance of the *impugned notification* is absolutely in violation to the said principle envisaged in Article 4 of the Constitution of 1973.

XV. Besides, Constitution of Islamic Republic of Pakistan, 1973 ensures equality of all the citizens before law and discourages any discrimination in services however in the case of the appellent, the *impugned Notification* is in violation to such fundamental rights and anything against the Fundamental Rights of the Constitution of 1973 is illegal and hence it is liable to be set aside on this score alone.

XVI. Any other ground that may be raised at the time of hearing of this service appeal.

It is, therefore, respectfully prayed that on acceptance of the present appeal, this hon'ble Tribunal may be pleased to;

- a. **Declare *impugned notification*** dated 25.04.2018 as null and void and the same be set aside **AND**
- b. **Direct** the respondent/ respondents concerned to treat the appellent as **MS Liaqat Memorial Hospital, Kohat** forthwith.
- c. **Any other** relief deemed fit and proper may kindly be granted in the given circumstances of the case.

Dated: \_\_\_\_\_, 2018

*Imber Rana*  
APPELLANT

Through

*Muhammad Adnan Sher*  
MUHAMMAD ADNAN SHER  
Advocate High Court, Peshawar

**Interim Relief;**

By way of interim relief, this hon'ble Tribunal may be pleased to suspend the *impugned notification* dated 25.04.2018 till final disposal of subject service appeal.

*Muhammad Adnan Sher*  
COUNSEL

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No: / 2018

Dr. Gul-e-Rana

**VERSUS**


Govt of KP & Others

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**APPLIACATION FOR SUSPENSION OF *impugned Notification 25.04.2018***  
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Respectfully Sheweth;

1. That the instant application may be considered as part and parcel of the enclosed service appeal pending adjudication before this hon'ble Tribunal in which date is yet to be fixed.
2. That the applicant/ appellant has got a *prima facie* case and sanguine about its success.
3. That the balance of convenience also tilts in favor of the applicant/ appellant.
4. That if the interim relief as prayed for in the heading of application is not granted, the applicant/ appellant will suffer irreparable loss.

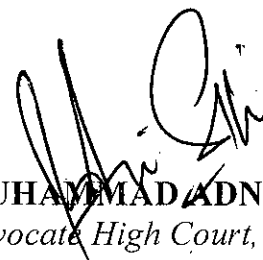
It is, therefore, respectfully prayed that on acceptance of this application, *impugned notification* dated 25.04.2018 may kindly be suspended and *status quo be granted*.



**APPLICANT/ APPELLANT**

Dated: \_\_\_\_\_, 2018

Through



**MUHAMMAD ADNAN SHER**  
*Advocate High Court, Peshawar*

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No: / 2018

Dr. Gul-e-Rana

**VERSUS**

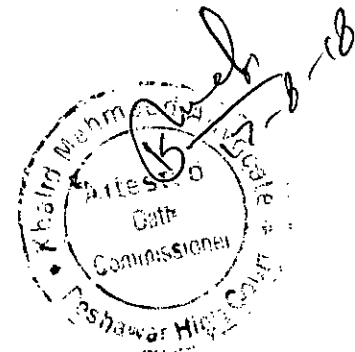
Govt of KP & Others

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**AFFIDAVIT**  
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I, **Dr. Gul-e-Rana** presently posted as PMO, DHQ Hospital KDA, Kohat do hereby declare and affirm on oath;

1. That the contents of this application along with service appeal are true and correct to the best of my knowledge and belief &
2. That nothing has been concealed from the august court, which it is necessary to disclose.

*Gul-e-Rana*  
**DEPONENT**





GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar, the 29<sup>th</sup> November 2016

NOTIFICATION

NO. SOH (E-V)4-20/2016: On Promotion to BS-19 on regular basis in respect of doctor at sr.no.1, the competent authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to order the posting/transfers of the following doctors in the public interest with immediate effect;

S.NO	Name of doctor	From	To
1.	Dr. Gul e Rana, Management Cadre BS-19	Coordinator NP for FP and PHC Kohat ✓	Medical Superintendent, Woman and Children Hospital, Kohat vice sr. no.2 ✓
2.	Dr. Ubaid Hussain, Management Cadre BS-19	Medical Superintendent, Woman and Children Hospital, Kohat ✓	Medical Superintendent, Civil Hospital Eadhabeer, Peshawar against newly created post ✓

Secretary Health  
Govt of Khyber Pakhtunkhwa

OFFICE OF THE DIRECTOR GENERAL HEALTH SERVICES, KPK PESHAWAR.

No. 19290-97 /E-I (U-I) Dated Pesh. The 09-12/2016

Copy forwarded to the :-

01. District Health Officer, Kohat
02. Medical Supdt. Women & Children Hospital, Kohat.
03. District Health Officer, Peshawar.
04. AG Khyber Pakhtunkhwa Peshawar.
05. DAO, Kohat.
06. AE-I, DGHS office Peshawar.
07. AE-IV, DGHS office Peshawar.
08. Doctor concerned.

For information and n/action.

617/PT  
19/12/16

ASSISTANT DIRECTOR (P-I)  
DIRECTORATE GENERAL HEALTH  
SERVICES, KPK PESHAWAR.

7-311/16

Annex  
Ann (9)  
E1  
2159  
02-12-16

Seen  
Gul-e-Rana

M.H.

ANNEX # A-1  
10

WOMEN AND CHILDREN/LIAQAT MEMORIAL HOSPITAL KOHAT

CERTIFICATE OF TRANSFER OF CHARGE.

Certified that we the following Doctors have this day after / before noon taken / handed over the charge of this office of MEDICAL SUPERINTENDENT WOMEN & CHILDREN / LIAQAT MEMORIAL HOSPITAL KOHAT with reference to the Notification No. SOH (E-V) 4-20/2016 dated 29<sup>th</sup> November 2016.

Station: W&C/LMH KOHAT

Dated: 05<sup>TH</sup> DEC 2016

Signature of the Receiving Govt: Servant

Govt: Servant Gul-e-Rana  
Name: DR. GUL E RANA  
Designation: MEDICAL SUPERINTENDENT BPS-19

Signature of the Relived Govt: Servant

Govt: Servant \_\_\_\_\_  
Name: \_\_\_\_\_  
Designation: \_\_\_\_\_

OFFICE OF THE MEDICAL SUPERINTENDENT  
WOMEN & CHILDREN/LM HOSPITAL KOHAT.

Endst: No. 41860-67 /PF/W&C/LMH

Dated Kohat the 06 Dec. 2016

Copy forwarded to the:-

1. Secretary Health Govt of Khyber Pakhtunkhwa Peshawar
2. Director General Health Services Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner, Peshawar.
4. Chief Executive DHQ & W&C/LM Teaching Hospitals Kohat
5. District Health Officer Kohat
6. Medical Superintendent DIIQ Teaching Hospital Kohat.
6. District Account Officer Kohat.
7. Personal file.

Gul-e-Rana  
MEDICAL SUPERINTENDENT  
WOMEN & CHILDREN HOSPITAL KOHAT

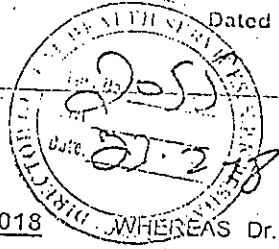




GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar the 13<sup>th</sup> February, 2018

ANNEX "B"  
11



NOTIFICATION

NO.SOH(E-V)7-178/2018

WHEREAS Dr. Gul-e-Rana Management Cadre BS-19 Medical Superintendent Liaqat Memorial Hospital Kohat has been proceeded under Khyber Pakhtunkhwa Govt Servants (Efficiency and Discipline) Rules, 2011, on account of illegal appointment of Class-IV in Liaqat Memorial Hospital Kohat.

AND WHEREAS formal inquiry was conducted into the matter with the approval of the competent authority (Chief Minister Khyber Pakhtunkhwa) against the doctor concerned to probe into the charges of illegal appointment of Class-IV in Liaqat Memorial Hospital Kohat.

AND WHEREAS the Inquiry Officers/Committee submitted inquiry report to Health Department which has been placed before the competent authority (Chief Minister Khyber Pakhtunkhwa).

AND WHEREAS the charges of illegal appointment of Class-IV in Liaqat Memorial Hospital Kohat has not approved against Dr.Gul-e-Rana Management Cadre Medical Superintendent (BS-19) Liaqat Memorial Hospital Kohat.

NOW THEREFORE in exercise of powers conferred under Sub Rule (3) of Rule-14 of the Khyber Pakhtunkhwa Govt Servants (Efficiency and Discipline) Rules 2011, the competent authority (Chief Minister Khyber Pakhtunkhwa) has been pleased to exonerate Dr.Gul-e-Rana Management Cadre Medical Superintendent (BS-19) Liaqat Memorial Hospital Kohat from the charges mentioned in the charge sheet.

SECRETARY HEALTH  
Govt of Khyber Pakhtunkhwa.

Endst. No & Date Even.

Copy to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. PSO to Chief Secretary Khyber Pakhtunkhwa
3. Director General Health Services, Peshawar.
4. District Health Officer, Kohat.
5. MS Liaqat Memorial Hospital Kohat.
6. District Accounts Officer, Kohat.
7. PS to Secretary Health Department.
8. Computer Programmer Health Department.
9. Officer/doctor concerned.

(Muhammad Irfanuddin)  
SECTION OFFICER(E-V)

OFFICE OF THE DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

No. 4291-95/E-I(G-81)

Dated: 1 / 10 / 2018

Copy of the above is forwarded to:-

1. District Health Officer Kohat.
2. M.S Liaqat Memorial Hospital Kohat.
3. District Accounts Officer Kohat.
4. P A to DGHS Khyber Pakhtunkhwa Peshawar.
5. Doctor concerned.

for information and further necessary action.

DEPUTY DIRECTOR (HPM)  
DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA, PESHAWAR

27/2



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

ANNEX "C"  
(12)

Dated Peshawar, the 25<sup>th</sup> April, 2018

NOTIFICATION.

NO.SOH(E-V)7-172/2017

The competent authority (Chief Minister Khyber Pakhtunkhwa) is pleased to order postings/transfers of the following doctors with immediate effect in the public interest -

S#	Name of Doctor	From	TO
1	Dr. Gul-e-Rana Management BS-19 Cadre	Medical Superintendent Liaquat Memorial Hospital Kohat	DHO Hospital KDA Kohat against the vacant post of PMO BS-19.
2	Dr Naeem Management BS-19 Shah Cadre	MS Hospital Shaker Darra Kohat	MS Liaquat Memorial Hospital Kohat S No 01.

SECRETARY HEALTH  
Govt of Khyber Pakhtunkhwa.

Endst. No. & Date even

Copy to :-

1. Accountant General Khyber Pakhtunkhwa.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. District Health Officer Kohat.
4. MS DHQ Hospital KDA Kohat.
5. MS Liaquat Memorial Hospital Kohat.
6. MS Category-D Hospital Shaker Darra Kohat
7. District Accounts Officer Kohat.
8. PS to Minister Health Khyber Pakhtunkhwa.
9. PS to Secretary Health Department
10. PS to Special Secretary Health Department.
11. Computer Programmer Health Department.
12. Doctors concerned.

  
SECTION OFFICER-V

Annex "C-1"  
3

From: Adnan Sher adnan\_sher@icloud.com  
Subject:  
Date: August 14, 2018 at 2:37 PM  
To: adnan\_sher@icloud.com

ELECTION COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad the 31<sup>st</sup> July, 2018

No. F.2 (3)/2018-Cord. WHEREAS the Election Commission imposed ban on all type of recruitments and development schemes approved w.e.f 1<sup>st</sup> April, 2018, vide Notification No. F. 2(3)/ 2018-Cord dated 11<sup>th</sup> April 2018;

AND WHEREAS a notification was issued on 4<sup>th</sup> June, 2018 whereby it was directed that transfers/ postings shall be subject to prior approval of the Election Commission and postings/ transfers made between 1<sup>st</sup> June and 4<sup>th</sup> June, 2018 were cancelled;

AND WHEREAS funds of all local government institutions were frozen vide Notification vide No. F. 2(3)/ 2018-Cord dated 8<sup>th</sup> June, 2018;

AND WHEREAS the Notification dated 11<sup>th</sup> April 2018 regarding ban on recruitments and development schemes was partially modified and ban on recruitment was withdrawn with a proviso that Caretaker Governments shall not make promotions, major appointments of public officials but may make acting or short term appointments in public interest;

Now when the General Elections have been held in the Country and new governments are going to be formed soon, therefore, above mentioned notifications are hereby withdrawn with immediate effect. The Caretaker Governments shall follow restrictions mentioned in Section 230 (2) (e) (f) of Elections Act 2017 for their remaining period in office.

By order of the Election Commission of Pakistan,



<https://chat.whatsapp.com/71xhG6qS0UqK082HRfHaM6>

(Waqas Ahmed Malik)  
Deputy Director(Cord)

ANNEX "D"  
W & C Hospital  
Kohat  
Dated: 30.04.2018

14

To

The Secretary Health  
Department of Health  
Khyber Pakhtunkhwa, Peshawar

**THROUGH PROPER CHANNEL**

Sub: **APPEAL AGAINST THE NOTIFICATION FOR POSTING & TRANSFER**

Sir,

Please refer to your Notification No: SPH (E-V) 7-172/2017, Dated: April 25, 2018 on the subject mentioned above.

It is to inform your good self that the subject notification of my transfer & posting is wrong and illegal based on the fact that:

1. I am senior member of the management cadre and as per rules and regulations I shall be posted & transfer anywhere on the management post only.
2. My transfer orders are premature as I have not completed my tenure (normal tenure 2 years) on the said post as evident from the fact that I joined this post Jan 5, 2017.
3. There is no complaint or irregularity reported against me.
4. The only reported inquiry during my period was political motivated and initiated by law Minister Mr. Imtiaz Qureshi which was directly conducted by law department and later informed health department: I was exonerated from all charges.
5. My transfer & posting is clear cut case of political victimization as mentioned earlier that the local MNA/Law Minister was aggrieved on having less share during class IV appointments during early 2017. Since then I have been victimized time to time and threats received verbally & through messenger but thanks to All Mighty Allah that all efforts against me were turned down & failed.
6. Last but not the least that I have never ever requested verbally or submitted any application to my department for my posting & transfer. Surprisingly through reliable source rumors spread in the department is that I (Dr. Gul e Rana MS W&C Hospital Kohat) have asked for her transfer, which is not only disappointing but shocking.
7. I therefore request your good self that I may please either retained on my existing post or may please transfer on the management post.

*Gul e Rana*  
Medical Superintendent  
W & C Hospital Kohat

Copy to:

1. PA to Director General Health Services Khyber Pakhtunkhwa Peshawar
2. Additional Director General HRM, DGHS Office, Khyber Pakhtunkhwa Peshawar

ANNEX "E"  
15

BEFORE THE PESHAWAR HIGH COURT PESHAWAR.

Writ Petition \_\_\_\_\_ / 2018.

Dr Gul-e-Rana w/o Syed Jamal Akbar R/o KDA Kohat.

Versus



- 1:- The Secretary Health Govt of Khyber PakhtunKhaw Peshawar.
- 2:-Director General Health Service KPK Peshawar.
- 3:-The Chief Minster through Secretary KPK Peshawar.
- 4:-The Provincial Law Minster through secretary
- 5:-Dr Naseem Shah (MS LMH Kohat)

(Respondents)

WRIT PETITION UDER ARTICLE 31A OF THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN

Pray:

In the light of above circumstances it is respectfully prayed that on acceptance of instant writ petition the Hon bale Court may directed to respondents above to set a side all illegal or impugned order and the Petitioner may not transferred from LMH Kohat to DHQ KDA Hospital and petitioner may allowed to perform her duties as before. it also prayed that during the pendency of petition ,the operation of the impugned order dated 25-04-2018 may graciously be suspended till the final disposal of the Petition and blessed with any other remedy in the larger interest of justice.

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the Petitioners on the following grounds:-

**ATTESTED**

EXAMINER  
Peshawar High Court

21 JUN 2018

P-4

ANNE (18)

# PESHAWAR HIGH COURT, PESHAWAR

## FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2	3
	<p><b>ORDER</b> 30.05.2018</p>	<p><b><u>Writ Petition No.2390-P/2018 with Interim Relief</u></b></p> <p>Present: Syed Mudasir Pirzada, Advocate, for Dr. Gul-e-Rana, petitioner.</p> <p>*****</p> <p><b><u>SYED AFSAR SHAH, J.</u></b>-Dr. Gul-e-Rana, the petitioner, through instant constitutional petition, has asked for the issuance of an appropriate writ declaring that order dated 25.04.2018 of respondent No.1, whereby she has been transferred from the post of Medical Superintendent, Liaqat Memorial Hospital, Kohat to the post of PMO in DHQ Hospital KDA, Kohat, being nullity in the eye of law, is of no effect whatsoever.</p> <p>2. The learned counsel appearing on behalf of the petitioner contended that when the respondents by transferring the petitioner repeatedly within a short span of time, have violated their own policy and their</p>

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**ATTESTED**  
EXAMINER  
Peshawar High Court  
21 JUN 2018

<p style="text-align: center;">9</p>	<p>act is totally based on mala fide intention and not in the public interest or in the exigencies of service, interference of this Court, in the peculiar facts and circumstances of the case, would be imperative and rather indispensable.</p> <p>3. We have gone through the available record carefully and considered the submissions made by the learned counsel for the petitioner.</p> <p>4. Admittedly, the controversy involved in the instant case is of posting and transfer, which in essence and in substance, being related to the terms and conditions of service and in view of the judgments of the apex Court of Pakistan rendered in the cases of <u>Miss Rukhsana Ijaz vs. Secretary, Education, Punjab &amp; others (1997 SCMR 167); Ayyaz Anjum vs. Government of Punjab, Housing and Physical Planning Department through Secretary and others (1997 SCMR 169); Rafique Ahmad Chaudhry vs. Ahmad Nawaz Malik &amp; others (1997 SCMR 170); Secretary Education NWFP, Peshawar and 2 others vs. Mustamir Khan &amp; another (2005 SCMR 17) and Peer Muhammad vs. Government of Baluchistan through Chief</u></p>
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**ATTESTED**  
EXAMINER  
Peshawar High Court  
21 JUN 2005

	<p><u>Secretary &amp; others (2007 SCMR 54)</u> and also judgments of this Court, rendered in the cases of <u>Bakhtiar Ahmad vs. SMBR in W.P.No.1167 of 2006 decided on 03.08.2006</u>; <u>Professor Rehana Matiullah vs. Chief Secretary &amp; others in W.P.No.1496 of 2006 decided on 12.02.2006</u>; <u>S. Mansoor Hussain Shah vs. Secretary LG/RD in W.P.No.1153 of 2006 decided on 03.08.2006</u>; <u>Waqif Khan Vs. Government of N.W.F.P. in W.P.No.1114 of 2006 decided on 28.07.2006</u>; <u>Pervez Khan vs. Addl. Chief Secretary FATA in W.P.No.2261 of 2006 decided on 14.02.2007</u>; <u>Serat Bibi vs. Government of NWFP in W.P.1559 of 2006 decided on 05.10.2006</u>; <u>Abdal Qadir vs. Government in W.P.No.561 of 2006 decided on 12.05.2006</u>; <u>Nawab Gul vs. SMBR in W.P.No.1033 of 2006 decided on 18.07.2006</u>; <u>Sardar Ali vs. Director Schools in W.P.No.942 of 2006 decided on 13.07.2006</u> and <u>Muhammad Ilyas Khan vs. District Revenue and Estate Officer and others in W.P.No.835 of 2007 decided on 23.05.2007</u> and many other judgments, such like matters / controversies can well be urged before the departmental authority in the first instance and then before the Service Tribunal, we, in view of</p>
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**TESTED**  
EXAMINER  
Peshawar High Court

21 JUN 2018



the bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 coupled with dictum laid down by the Hon'ble Supreme Court of Pakistan in number of cases, mentioned above, cannot embark upon such like matters.

5. For the reasons discussed above, this writ petition being without substance is dismissed. However, while parting with the judgment, we would like to direct the departmental authority viz. Secretary Health to decide the appeal of the petitioner, which is pending adjudication before him since 30.04.2018, one way or the other strictly in accordance with law through a speaking order as early as possible but not later than one month, after receipt of this order. /

**Announced.**

**30. 05. 2018**

*Rooh-ul-Amin*  
**JUDGE**

*Afsar*  
**JUDGE**

**DECLARED TO BE TRUE COPY**

**EXAMINER**  
Peshawar High Court, Peshawar  
Declared Under Article 8.7 of  
the Qanun-e-Shahadat Order 1980

**21 JUN 2018**

26362

No. ....

Date of Presentation *2/16/15*

No of Pages *9*

Copying .....

Urgent *361*

Total *361*

Date of Presentation *2/16/15*

Date of Delivery of *2/16/15*

Received by *MM Carr*

TO BE SUBSTITUTED BEARING THE SAME NUMBER AND DATE.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT



Dated Peshawar the 25<sup>th</sup> June, 2018

**NOTIFICATION**

**NO.SOH(E-V)7-172/2017**

WHEREAS Dr.Gul-e-Rana Management Cadre BS-19 was transferred from the post of Medical Superintendent Liaqat Memorial Hospital Kohat after due approval of the competent authority (Chief Minister Khyber Pakhtunkhwa) under Schedule-III of the Rule of Business, 1985

AND WHEREAS the said doctor submitted Writ Petition No.2390-P/2018 in the Peshawar High Court, Peshawar against this Department Notification dated 25.04.2018.

AND WHEREAS the honorable Peshawar High Court Peshawar in its judgment dated 30.05.2018 directed Secretary Health to decide the appeal of the Petitioner, one way or the other strictly in accordance with law through a speaking order as early as possible but not later than one month after receipt of the order dated 30.05.2018

AND WHEREAS Dr.Gul-e-Rana Management Cadre BS-19 was awarded personal hearing on 25.06.2018 in the presence of Additional Secretary (Establishment) Health Department.

AND WHEREAS, from the record it transpired that during the same time, the Provincial Inspection Team submitted inquiry against her Titled "Inquiry into the appointment of Class-IV in Liaqat Memorial Hospital Kohat" with no charges to prove against her.

AND WHEREAS, her tenure on the post effective dated 10.11.2016 till 25.04.2018 was Eighteen months which is less than the normal tenure.

NOW THEREFORE in view of the order of the Peshawar High Court Peshawar, her Departmental appeal merit consideration being based on merit. However, the Election Commission of Pakistan has imposed ban on posting/transfer and therefore, a summary will be moved to the Chief Minister Khyber Pakhtunkhwa, in lieu of the acceptance of appeal and for the posting back as Medical Superintendent Liaqat Memorial Hospital Kohat within the next three working days.

**SECRETARY HEALTH**  
**Govt of Khyber Pakhtunkhwa.**

**Endst. No & Date Even.**

Copy to the:-

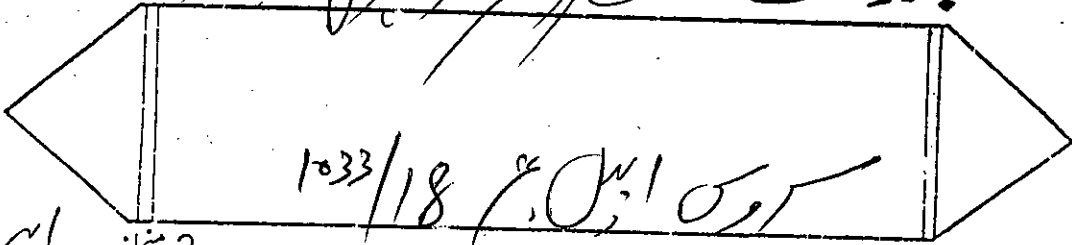
1. Accountant General Khyber Pakhtunkhwa.
2. Registrar Peshawar High Court Peshawar with reference to the Writ Petition No.2390-P/2018 dated 30.05.2018.
3. Section Officer (Litigation-I) Health Department.
4. Director General Health Services, Khyber Pakhtunkhwa
5. PS to Secretary Health Department.
6. Officer/Doctor concerned.

**SECTION OFFICER (E-V)**

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بعدالت

سید عبدالرشید شاہ



18/11/33

2، پنجاب ایبٹان

بنام حکومت وینزویلا  
فکر رانا

موزخہ  
مقدمہ  
دعویٰ  
نیم

باعث تحریر آنکہ

مقدمہ بندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام کے لئے اور کیلئے محمد عبدالرشید شاہ اور صاحب ایبٹان  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
ویکل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
باعدت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی  
نیز دائرہ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ  
واختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دہرہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20

واہ العبد

Accepted  
Hassan

Accepted  
Hassan

بیت

Muse-Lava



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

Dated Peshawar, the 30<sup>th</sup> August, 2018

**NOTIFICATION.**

**NO.SOH(E-V)1-946/2014**

The competent authority (Chief Minister Khyber Pakhtunkhwa) is pleased to order postings/transfers of the following doctors with immediate effect in the public interest:-

S#	Name of Doctor	From	TO
1.	Dr.Gul-e-Rana Management Cadre BS-19	PMO BS-19 DHQ Hospital KDA Kohat.	Medical Superintendent Liaqat Memorial Hospital Kohat.
2.	Dr.Naeem Shah Management Cadre BS-19	Medical Superintendent Liaqat Memorial Hospital Kohat	Medical Superintendent Category-D Hospital Shaker Darra Kohat against the vacant post of BS-19.

SECRETARY HEALTH  
Govt of Khyber Pakhtunkhwa.

**Endst. No. & Date even.**

Copy to :-

1. Accountant General Khyber Pakhtunkhwa.
2. Director General Health Services, Khyber Pakhtunkhwa.
3. District Health Officer Kohat
4. MS DHQ Hospital KDA Kohat.
5. MS Liaqat Memorial Hospital Kohat.
6. MS Category-D Hospital Shaker Darra Kohat
7. District Accounts Officer Kohat.
8. PS to Minister Health Khyber Pakhtunkhwa.
9. PS to Secretary Health Department
10. PS to Special Secretary Health Department.
11. Computer Programmer Health Department.
12. Doctors concerned.

  
SECTION OFFICER-V