

09.10.2020

Nemo for the appellant.

On the last date of hearing fresh notices to the appellant and counsel were ordered. The record shows that the requisite notices have been duly issued. It is 12.10 P.M on a Friday and despite repeated calls no one is in appearance on behalf of the appellant.

Dismissed for non-prosecution. File be consigned to the record.


Chairman

ANNOUNCED

09.10.2020

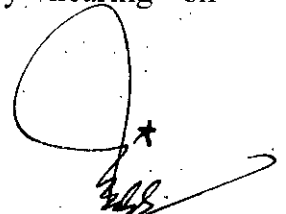
27.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18.06.2020 before S.B.


Reader

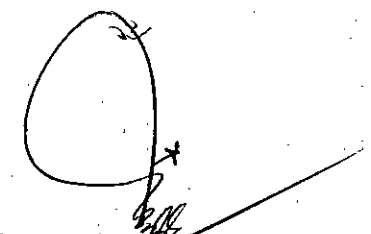
18.06.2020

Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 18.08.2020 before S.B.


MEMBER

18.08.2020

None for the appellant present.
Notices be issued to the appellant and his counsel.
Adjourned to 09.10.2020 before S.B.


(Mian Muhammad)
Member(E)

03.02.2020

Appellant in person present and requested for adjournment on the ground that his counsel is not available today. Adjourned to 11.03.2020 for reply and preliminary hearing before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

11.03.2020

Learned counsel for the appellant present. Junior to counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present and seeks adjournment. Adjourn. To come up on 12.03.2020 before S.B.


Member

12.03.2020

Learned counsel for the appellant present. Hazrat Shah Superintendent representative of the respondent department present and submitted reply. Adjournment requested. Adjourn. To come up for preliminary hearing on 26.03.2020 before S.B.


Member

SA No. 1470/2019

07.01.2020

Counsel for the appellant and Mr. Sher Baz Khan, S.O for respondent No. 2 alongwith Addl. AG for respondents No. 1 to 3 present.

The representative of respondent No. 2 requests for time to furnish a reply to the appeal as well as application for interim relief. The needful shall be positively done on the next date of hearing. The appellant is required to furnish complete copies of brief which shall be annexed with the notice to be issued to Director, MTI LRH Peshawar for next date of hearing.

Adjourned to 20.01.2020 before S.B.


Chairman

20.01.2020

Junior to counsel for the appellant and Mr. Sher Baz Khan, S.O for respondent No. 2 alongwith Addl. AG for the respondents present.

Representative of respondent No. 2 as well as learned AAG request for further time to furnish the requisite reply/comments. The appellant has not supplied complete set of brief; therefore, notice to Director, MTI LRH Peshawar could not be issued. Appellant is once again required to furnish complete set of brief within seven days. Thereafter, notice be issued to Director MTI, LRH, Peshawar for the next date of hearing.

To come up for reply and preliminary hearing on 03.02.2020 before S.B. The respondents shall also produce the record pertaining to the deputation of appellant as Professor Gynecology (BPS-21) at MTI LRH Peshawar on the next date of hearing.


Chairman

27.11.2019

Counsel for the appellant and Addl. AG alongwith Sher Baz Khan, S.O for the respondents present.

Representative of respondent No. 2 states that notice for proceedings in the instant appeal for today was received by the said respondent a couple of days ago *and* requisite record, if any, could not be located. He, therefore, requests for adjournment.

Adjourned to 11.12.2019 before S.B.


Chairman

11.12.2019

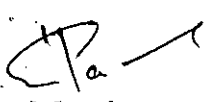
Junior to counsel for the appellant present:

Requests for adjournment due to general strike of the Bar today. Adjourned to 23.12.2019 before S.B.


Chairman

23.12.2019

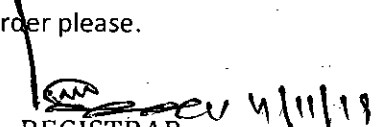
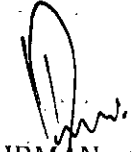

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate alongwith Sher Baz S.O present. representative of official respondents did not furnish proper record vis a vis appellant. In view of the circumstances of the case, Director MTI LRH is also impleaded as respondent in the calendar of respondents. Let preadmission notice be issued to the respondents including newly added respondent for reply. Adjourn. To come up for reply and preliminary hearing on 07.01.2020 before S.B


Member

FORM OF ORDER SHEET

Court of _____

Case No.- 1470/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/11/2019	<p>The appeal of Prof. Dr. Sadaqat Jabeen presented today by Mr. Khaled Rehman 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</p>
2-	04/11/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/11/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the appellant present.</p> <p>Notice be issued to respondents for production of record pertaining to the deputation of appellant as Professor of Gynaecology BS-21 at MTI LRH Peshawar.</p> <p>To come up for further proceedings on 27.11.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>
12.11.2019		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1470 /2019

Prof. Dr. Sadaqat Jabeen Appellant

Versus

The Govt. of KPK and others Respondents

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Through

Appellant


 Khaled Rahman
 Advocate,
 Supreme Court of Pakistan

&

Muhammad Amin Ayub
 Advocate, High Court

4-B, Haroon Mansion
 Khyber Bazar, Peshawar
 Off: Tel: 091-2592458
 Cell # 0345-9337312

Dated: 4 /11/2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1470 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1539

Dated 04-11-2019

Prof. Dr. Sadaqat Jabeen

Head of Department Obstetrics & Gynaecology
Lady Reading Hospital, Peshawar
under transfer to the office of the DG Health Services
Khyber Pakhtunkhwa.....

Appellant

Versus

1. **The Govt. of Khyber Pakhtunkhwa**

through Chief Secretary,
Civil Secretariat, Peshawar.

2. **The Secretary,**

Govt. of Khyber Pakhtunkhwa Health Department,
Civil Secretariat, Peshawar.

3. **The Director General Health Services,**

Khyber Pakhtunkhwa, Peshawar.....

Respondents

23/11/19
Director Director MTI LRH Peshawar

REGISTRATION
SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 14.06.2019 ISSUED BY RESPONDENT NO.2 COMMUNICATED ON 25.06.2019 WHEREBY THE SERVICES OF THE APPELLANT WERE WITHDRAWN FROM THE MTI/LRH AND PLACED AT THE DISPOSAL OF THE HEALTH DEPARTMENT WITH DIRECTION TO THE APPELLANT TO REPORT THERE AGAINST WHICH APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION ON 22.07.2019 BUT THE SAME HAS NOT BEEN DISPOSED OF WITHIN STATUTORY PERIOD OF 90 DAYS.

Filed to-day

4/11/19
Registrar **PRAYER:**

On acceptance of the instant appeal, impugned Notification dated 14.06.2019 communicated on 25.06.2019 may kindly be brushed aside to the extent of appellant by allowing her to perform her duties as Professor Gynecology (BPS-21) in MTI/LRH, Peshawar.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. **That** appellant was appointed as Senior Registrar (BPS-18) on the recommendation of the Khyber Pakhtunkhwa Public Service Commission vide Notification 16.06.1992 (*Annex:-A*) and posted at the PGMI LRH, Peshawar. Subsequently she was promoted to the post of Assistant Professor (Gynaecology) vide Notification dated 08.08.1997 (*Annex:-B*) in Khyber Medical College, Peshawar. She was also promoted to the post of Associate Professor (Gynaecology) (BPS-19) on the recommendation of Provincial Selection Board vide Notification dated 04.11.2002 (*Annex:-C*) against the vacant post at PGMI LRH, Peshawar. She again was promoted to the post of Professor (Gynaecology) (BPS-20) against the vacant post at PGMI LRH, Peshawar vide order 14.03.2009 (*Annex:-D*).
2. **That** all along appellant performed her duties as a Surgeon, Consultant, Teacher, Researcher, Supervisor as well as Member of various Committees and so also the Head of the Department to the best of her capabilities and to the entire satisfaction of high-ups as well as the requirements of the duty. The appellant at the total has at her credit impeccable and outstanding service record of 34 years (PERs *Annex:-E*) and was due to retire in the coming months on superannuation but for the recent change of law regarding the date of retirement.
3. **That** vide impugned Notification dated 14.06.2019 (*Annex:-F*) Respondent No.2 withdrew the services of the appellant from the MTI/LRH and directed her to report to the Health Department. The Notification was prompted as a consequence of the decision of BOG of MTI/LRH and as per the Provision of Section-17(3b) of the Khyber Pakhtunkhwa Medical Institutions Reforms Act, 2015 ("**the Act of 2015**"). Consequently, as an obedient civil servant, the appellant submitted Arrival Report (*Annex:-G*) to Respondent No.2 under compulsion on 02.07.2019 under protest with cogent reasons.
4. **That** the appellant being mortally aggrieved of the impugned Notification *ibid*, called in question the same in departmental Representation (*Annex:-H*) on 22.07.2019, however, the same was not decided within the statutory

period of 90 days, hence the instant service appeal, inter-alia on the following grounds:-

Grounds:

- A. **That** Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification which is unjust, unfair and hence not sustainable in the eye of law.
- B. **That** the impugned Notification is neither in the public interest nor in exigency of service but is the result of political pressure and thus is in stark violation of the Transfer/Posting Policy (*Annex:-I*) framed by the Provincial Government which provides: *All the posting/transfers shall be strictly in the public interest and shall not be abused/misused to victimize the Government servants.* Since the impugned Notification militates against the instructions *ibid*, therefore, is liable to be set at naught.
- C. **That** the Promotion of the appellant against the post of Associate Professor ever since 2002 and her subsequent promotion to the post of Professor in 2009 were specifically for PGMI LRH and thus appellant had been performing as Associate Professor and Professor in PGMI LRH for the last 17 years. As per Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 *Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or local authority or a corporation or body set up or established by any such Government provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region.* In this view of the matter the impugned Notification cannot be sustained.
- D. **That** the impugned Notification is void ab-initio as well as coram-non-judice in view of the fact that Respondent No.2 is not competent to issue such Notification as per the Provision of Rule-4 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 under which the competent authority is the worthy Chief Minister. Thus the impugned Notification is liable to be reversed on this singular

ground.

- E. **That** the appellant has been discriminated as dozens of other Professors (civil servants) including Prof. Dr. Amir Bilal Cardio Thorax Surgeon, Prof. Adnan Khan Neuro Physician, Prof. Zafar Iqbal (Eye), Prof. Rehana Rahim (Gynaecology), Prof. Gul Rukh Qazi (Gynaecology) and others have been allowed to stay at the same Institution while the appellant has been singled out on false and flimsy grounds which has resulted in serious miscarriage of justice.
- F. **That** regarding Section-16(3A) of the Act of 2015 as amended vide Notification dated 10.01.2019 firstly it is submitted that as per the repeated Judgments of the Hon'ble Supreme Court of Pakistan by deeming provision the nature of the service cannot be changed, therefore, the appellant already a regular civil servant working against the post of Professor in the MTI/LRH cannot be deemed to be a deputationist all of sudden with a retrospective effect: Secondly, the deputation has its own parameters, rules, regulations where there is trilateral consensus amongst the borrowing, lending Departments and the employee which are missing in the instant case: Thirdly, the Amendment Act is prospective in its operation, therefore, it cannot adversely affect the existing terms and conditions of the civil servants from a retrospective effect.
- G. **That** termination of the so called deputation of the appellant is based upon misplaced bias and prejudicial attitude of the Management of the MTI/LRH which is further augmented from the fact that in 2016 a post of Departmental Chairperson of Gynae & Obstetrics MTI/LRH was advertised for which the appellant applied on 28.07.2016 (*Annex:-J*) and competed for the post alongwith others on merits. Being on the top of Merit List, the Search Committee recommended the appellant for the subject post in its meetings held on 19.09.2016 and 25.10.2016. The recommendations were forwarded to the competent authority for appointment but still the appointment of the appellant was not approved on the basis of baseless and ill-founded reasons and the post was decided to be re-advertised as is evident from the letter dated 28.11.2016 (*Annex:-K*). The Minutes of the Search Committee were not provided to the appellant although she applied for the same vide letter dated 25.11.2016 (*Annex:-L*). Thus the post was re-

advertised and again Petitioner applied for the same on 13.12.2016 (*Annex:-M*) and once again the selection process was conducted and accordingly appellant was again recommended by the Search Committee for the post of Departmental Chairperson. Since the Management was still reluctant to appoint appellant against the post for the same baseless grounds, therefore, appellant approached the Hon'ble Peshawar High Court, Peshawar in W.P.4690-P/2016 seeking directions to the Management to issue the appointment Notification of Petitioner which was accordingly allowed vide Judgment dated 12.04.2017 (*Annex:-N*) and consequently Petitioner was appointed as Chairperson of the Department of Gynaecology & Obstetrics vide Notification dated 05.05.2017 (*Annex:-O*) and was also notified as Member of the Clinical Executive Board, MTI/LRH vide Notification dated 11.05.2017 (*Annex:-P*). It is also pertinent to add that the appellant was working as Head of the Department (Gynaecology & Obstetrics) ever since 2012 in the MTI/LRH.

- H. **That** the impugned Notification has also affected at least 30 Trainee TMOs who were under the supervisorship of the appellant and preparing for the FCPS Part-II exams. Due to the transfer of the appellant the education/training as well as the academic performance of such TMOs has been greatly put at stake resulting into big loss to the Health Institution and general public at large. Moreover, the appellant is a recognized Supervisor/examiner of CPSP in addition to having the honour of being holder of various important positions on various Professional Bodies at Pakistan and regional level as Secretary of Faculty Obstetrics & Gynaecology CPSP, as Vice-President of Society of Gynaecology & Obstetrics Pakistan, Member of the Society of the South Asian Federation of Obstetrics & Gynaecology (SAFOG). The appellant also worked as a Member of various Policy Making Committees at LRH and Health Department, Khyber Pakhtunkhwa.
- I. **That** it is a settled legal principle that where the law requires a thing to be done in particular manner then the same must be done in that manner or not at all. Deviation from the Rules and Policy vitiates the most solemn proceedings. The impugned Notification is the result of abusive exercise of power and therefore is liable to be brushed aside.

- J. **That** clear violation of Section-24A of the General Clauses Act, 1897 has been made by not responding to the Departmental Representation of the appellant which is not sustainable in the eye of law. It is settled law that authorities having statutory powers must exercise the same in fair, just and reasonable manner. The acts of the Respondents are unfair, unjust and therefore not maintainable.
- K. **That** in the case of Anita Turab reported in **PLD 2013 SC 195** (*Annex:-Q*) it has been laid down that Officers should not be posted as OSD except for compelling reasons which must be recorded in writing and are judicially reviewable. The appellant has been rendered as OSD ever since the impugned Notification dated 14.06.2019 which is against the law. The Judgment has been circulated vide office Memorandum dated 03.01.2013 (*Annex:-R*) and circular dated 27.02.2013 (*Annex:-S*).
- L. **That** appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant

Nasir

Khaled Bahman,
 Advocate,
 Supreme Court of Pakistan

&


Muhammad Amin Ayub
 Advocate, High Court

Dated: 04/10/2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2019

Prof. Dr. Sadaqat Jabeen Appellant

Versus

The Govt. of KPK and others Respondents

Application for suspending the operation of the impugned Notification dated 14.06.2019 till the final disposal of the instant appeal.

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of applicant/ appellant.
3. That the balance of convenience also lies in favour of applicant/appellant and in case the impugned Notification is not suspended the applicant/ appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned Notification dated 14.06.2019 may graciously be suspended till the final disposal of the main appeal.

Through

Applicant


Khaled Rahman,
Advocate,
Supreme Court of Pakistan

&

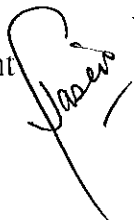

Muhammad Amin Ayub
Advocate, High Court

Dated: 4 /10/2019

Verification

Verified that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Applicant/Appellant



-8

A

GOVERNMENT OF NWFP
HEALTH AND SOCIAL WELFARE DEPTT:

Dated Peshawar, the 16.6.1992.

NOTIFICATION

Annex 'A'

No. SOH.IV/262/70/91/AN. On the recommendation of the N.W.F.P. Public Service Commission, the Governor, N.W.F.P is pleased to appoint the following candidates as Senior Registrars (BS-18) in the Health Department in the specialities noted against each on the usual terms and conditions with immediate effect, on regular basis :-

- | | |
|-----------------------|---------------------------------------|
| 1. Dr Sadaqat Jabeen. | Senior Registrar,
Gyneay. |
| 2. Dr Obaidullah. | Senior Registrar,
Plastic Surgery. |

2. On their appointment as Senior Registrar (BS-18) the following postings/transfers are hereby ordered with immediate effect in the public interest :-

<u>S.NO.</u>	<u>NAME OF DOCTOR.</u>	<u>FROM</u>	<u>TO</u>
1. ✓	Dr Sadaqat Jabeen.	W.M.O. Gyneay Ward, LRH, Peshawar.	Senior Registrar, PGMI, LRH, (Gyneay) Peshawar.
2.	Dr Obaidullah.	H.O Plastic Surgery, L.R.H, Peshawar.	Senior Registrar, PGMI, LRH, (Plastic Surgery) Peshawar.

(PROFESSOR DR MOHAMMAD KABIR,
SECRETARY HEALTH.

Endst: No. & Date even.

Copy forwarded for information and necessary action
to :-

1. The Director Health Services, NWFP, Peshawar.
2. The Principal, Khyber Medical College, Peshawar.
3. The Dean, PGMI/LRH, Peshawar.
4. The Administrator, HSTH, Peshawar.
5. The Administrator, LRH, Peshawar.
6. The Accountant General, N.W.F.P., Peshawar.
7. The Secretary Public Service Commission, NWFP, Peshawar.
8. The Manager Government Printing Press for publication in the next Gazette of issue.
9. Dr Sadaqat Jabeen, W.M.O. LRH, Peshawar.
10. Dr Obaidullah, MO, LRH, Peshawar.
11. PS to Secretary Health.

ATTESTED

[Signature]

[Signature]
12/6
SECTION OFFICER (H-IV)
HEALTH DEPARTMENT, NWFP.

Annex B⁹

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Dated 8-8-1997.

NOTIFICATION

NO.SOI(H)/1-311/97:- On her promotion from Sr.Registrar Gynae to the Post of Assistant Professor Gynae (BS-18) Dr.Sadaqat Jabeen, has assumed the charge of her duty as Assistant Professor Gynae Khyber Medical College Peshawar with effect from 5th Aug 97(F/N).

SECRETARY HEALTH

Endst No.& Date even

Copy forwarded for information and necessary action to:-

1. The Principal Khyber Medical College Peshawar, w/r to his No.7096-98/Estt/PP/KMC, dated 5-8-1997.
2. The Accountant General NWFP, Peshawar.
3. Dr.concerned.
4. Personal file of the Dr.concerned.

Sd/
(ABDUL WAHAB)
SECTION OFFICER-I(H).

KHYBER MEDICAL COLLEGE PESHAWAR.

No. 7266-68/E.1-112/KMC.

Dated 15/8/1997.

Copy to:-

1. The Head, Deptt: of Gynae KMC, Peshawar.
2. The Pay bill clerk KMC, Peshawar.
3. The offices concerned.

PRINCIPAL
KHYBER MEDICAL COLLEGE
PESHAWAR.

ANNEXED

GOVERNMENT OF NWFP
HEALTH DEPARTMENT.

Dated Peshawar the 4th Nov; 2002.

NOTIFICATION

No.SOH-I/Reg/1-64/02. Consequent upon recommendations of the Provincial Selection Board, the Competent Authority is pleased to promote Dr.Sadaqat Jabeen, Assistant Professor Gynaecology (BS-18) to the post of Associate Professor Gynaecology (BS-19) on regular basis with immediate effect and posted at PGMI/LRH against the vacant post subject to the condition that she will be on probation for a period of one year in terms of section-6(2) of NWFP Civil Servants Act 1973 read with Rule-15 (1) of NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989.

SECRETARY HEALTH

Endst No.SOH-I/Reg/1-64

Dated 4.11.2002.

Copy forwarded to:-

1. Secretary Establishment Department, NWFP.
2. Accountant General, NWFP, Peshawar.
3. Chief Executive, LRH, Peshawar
4. Principal, Khyber Medical College, Peshawar.
5. Dean PGMI/HMC, Peshawar.
6. Chief Executive, KTH/KMC/KCD, Peshawar
7. Chief Executive, HMC, Peshawar.
8. Director Information, NWFP, Peshawar.
9. Section Officer (PSB) E&A Department, NWFP.
10. Section Officer (Gen) Health Department.
11. P.S to Secretary Health, NWFP.
12. Doctor concerned.

173
2mm
12mm
(NAZIR A. AWAN)
SECTION OFFICER (REG)

4/21/02

ATTESTED

GOVERNMENT OF NWFP
HEALTH DEPARTMENT

Dated Peshawar the 14th March; 2009

NOTIFICATION

No.SOH-I/HD/1-165/09 The Competent Authority on the recommendations of Provincial Selection Board is pleased to order the promotion of **Dr. Sadaqat Jabeen**, Associate Professor of Gynaecology (BS-19) to the post of Professor of Gynaecology (BS-20) on regular basis and to post her at PGMI/LRH, Peshawar with immediate effect.

2. She will be on probation for a period of one year.

SECRETARY HEALTH, NWFP

Endst No and date even

Copy forwarded to:-

1. Principal Khyber Medical College, Peshawar.
2. Chief Executives, LRH/KTH/HMC, Peshawar.
3. Dean PGMI/HMC, Peshawar.
4. Accountant General, NWFP, Peshawar.
5. Director Finance LRH, Peshawar.
6. Director Information NWFP, Peshawar.
7. Computer Programmer Health Department NWFP.
8. P.S to Minister Health, NWFP
9. P.S to Secretary Health, NWFP.
10. P.S to Special Secretary Health, NWFP.
11. P.As to Addl. Secretaries/Deputy Secretaries, Health Deptt.
12. Doctor concerned.
13. Personal file of the doctor concerned.

(SAMIN JAN)

SECTION OFFICER-I

Copy available on website www.healthnwfp.gov.pk

17/03/09
4588
17/03

ATTESTED

13. 9



LADY READING HOSPITAL, PESHAWAR
MEDICAL TEACHING INSTITUTION

Annual PERFORMANCE REVIEW (MEDICAL STAFF)

Amended "E"
-12 HR ID: _____

ISSUE DATE: _____

APPRAISAL PERIOD: JAN-DEC, 2017

SUBMISSION DATE: 19/11/2018

Doctor Name: D. SADOOT JABEEN Father Name: Ghulam Molyuddin

Designation (as per appointment): Professor BPS/Grade: (20) HR ID: 1500

Department: Gbs/gynae Place of Duty: Lady Reading Hospital Peshawar

Employment Status (Civil / Institutional): CIVIL PMDC No. 2435-N
(As & if applicable)

CNIC No: 17301-82548854 Contact No: 0321-9112822 HoD Name Self

1. Quality of Work (15 Marks)

Work is performed accurately and neatly. Work is Consistent, thorough and complete.	Comments (If any)
<input checked="" type="checkbox"/> Outstanding (15) <input type="checkbox"/> Exceeds Expectations (12) <input type="checkbox"/> Meets Expectations (09) <input type="checkbox"/> Improvement Needed (07) <input type="checkbox"/> Unacceptable (05)	

2. Quantity of Work (15 Marks)

Amount of work performed on a daily basis is Appropriate for job function	Comments (If any)
<input checked="" type="checkbox"/> Outstanding (15) <input type="checkbox"/> Exceeds Expectations (12) <input type="checkbox"/> Meets Expectations (09) <input type="checkbox"/> Improvement Needed (07) <input type="checkbox"/> Unacceptable (05)	

3. Job Knowledge (15 Marks)

Understands the job requirements and has specific Content knowledge where appropriate.	Comments (If any)
<input checked="" type="checkbox"/> Outstanding (15) <input type="checkbox"/> Exceeds Expectations (12) <input type="checkbox"/> Meets Expectations (09) <input type="checkbox"/> Improvement Needed (07) <input type="checkbox"/> Unacceptable (05)	

4. Punctuality and Dedication (15 Marks)

Punctual and Dedicated towards Job	Comments (If any)
<input checked="" type="checkbox"/> Outstanding (15) <input type="checkbox"/> Exceeds Expectations (12) <input type="checkbox"/> Meets Expectations (09) <input type="checkbox"/> Improvement Needed (07) <input type="checkbox"/> Unacceptable (05)	

5. Interaction with colleagues, Employees and General public visiting Hospital (15 Marks)

Behavior and Communication Skills	Comments (If any)
<input type="checkbox"/> Outstanding (15) <input checked="" type="checkbox"/> Exceeds Expectations (12) <input type="checkbox"/> Meets Expectations (09)	

ATTESTED

B



LADY READING HOSPITAL, PESHAWAR
MEDICAL TEACHING INSTITUTION

- 13

HR ID: _____

Annual PERFORMANCE REVIEW (MEDICAL STAFF)

ISSUE DATE: _____

APPRAISAL PERIOD: JAN-DEC, 2016

SUBMISSION DATE: _____

<input type="checkbox"/> Improvement Needed	(07)	
<input type="checkbox"/> Unacceptable	(05)	

6. Professional Appearance (10 Marks)

Uniform and Dress code	Comments (if any)
<input type="checkbox"/> Outstanding (10)	
<input checked="" type="checkbox"/> Exceeds Expectations (08)	
<input type="checkbox"/> Meets Expectations (06)	
<input type="checkbox"/> Improvement Needed (05)	
<input type="checkbox"/> Unacceptable (03)	

Has the performance of the employee been extraordinary enough to justify consideration for accelerated promotion and or salary increment?

- Yes
- No

If yes explain: She is a civil servant

GENERAL COMMENTS _____

REVIEWER'S Munir Khan
(Name, Signature & Date)

DEPARTMENT HEAD: MD
(Name, Signature & Date)

EMPLOYEE COMMENTS (OPTIONAL) _____

EMPLOYEE _____
(Name, signature and date)

Medical Director Comments: She is an excellent team member and an asset

COUNTER SIGNED: _____
Signature & Date _____
(Medical Director)

Medical Director
Lady Reading Hospital
MTI Peshawar

(Note: Make photocopies of this form as required)


ATTESTED

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CERTIFICATE

Certified that I Prof. D Sadakat Jabeen BPS-20
(Name of Officer) (Group/Service) (BS)

have on 20/4/2018 submitted my Performance Evaluation Report
(Date)

to Medical Director MTI/LRH Peshawar (Prof. Dr. Mukhtyar Zaman)
(Name/Designation of Reporting Officer)

My countersigning officer is Dean MTI/LRH Peshawar (Prof. Dr. Arshad Javaid)
(Name/Designation of Countersigning Officer)

D SADAKAT JABEEN
Professor

Name/Designation/Department of officer

Note:-This certificate is required to be dispatched by the officer being reported upon to the Officer Incharge entrusted with the maintenance of his/her C:R dossier on the same date the PER is forwarded to his/her reporting officer.

Guidelines

ATTESTED

اسکیل ۱۹ اور ۲۰ کے افسران کے لیے

بصیغہ راز

GOVERNMENT OF N.-W.F.P.

حکومت صوبہ سرحد

Department/Office Obs/gynaec (Rt) Service/Group Health
 عکھ ادارہ سردس اگروپ

PERFORMANCE EVALUATION REPORT

کارکردگی رپورٹ

FOR THE PERIOD 1.1 2017 TO 31.12 2017
 ۲۰۱۷ ۱۱-۱۱ ۲۰۱۷ ۱۲-۳۱

PART I

حصہ اول

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(متعلقہ افسر خود پُر کریں)

- Name (in block letters) SADAOAT TABEEN
نام (دائیں حروف میں)
- Personnel number _____
انفرادی نمبر
- Date of birth 04.03.1960
تاریخ پیدائش
- Date of entry in service 1986
ملازمت اختیار کرنے کی تاریخ
- Post held during the period (with BPS) Professor BPS. 20
پیش نظر عرصہ میں عہدہ (مع اسکیل)
- Academic qualifications MBBS. FCPS.
تعلیم
- Knowledge of languages (Please indicate proficiency in speaking (S), reading (R) and writing (W)) (ہولے (ب)، پڑھنے (پ)، اور لکھنے (ل) کی صلاحیت)
زبانوں کا علم
Urdu. (S, R, W). English (S, R, W)
Pushtoo (S, R).

ATTESTED

8. Training received during the evaluation period (Training courses attended earlier, if any, may please be listed separately on the back page of the report)

متعلقہ عرصہ کے دوران تربیت کی تفصیل (اس سے پہلے تربیتی کورسوں میں شرکت، رپورٹ کے صفحہ کی پشت پر درج کریں)

Name of course attended کورس کا نام	Duration with dates تاریخوں کے ساتھ دورانیہ	Name of institution and country ادارے اور ملک کا نام
/	/	/

9. Period served

عرصہ ملازمت

(i) In present post

پرزورہ عہدے پر

9 years

(ii) Under the reporting officer

one year

رپورٹنگ افسر کے ماتحت

PART II

حصہ دوم

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(متعلقہ افسر خود پر کریں)

1. Job description

ذمہ داریوں کی تفصیل

Clinical - Patient care, inpatient, out-patient, day
all types of emergencies, management - All types of major, minor
gynaecological surgeons, laparoscopic surgeons

Academic Supervisor of FCPS, DGO, MCP, MRCOG Trainees

Examiner - FCPS Part II, IMM, DGO, MS/DGO at PIMS Islamabad

Director DGO course and examination, KMH, undergraduate exam
for KMC, KGMC, AMC, PMC

Course director for intensive FCPS courses

Arranging workshops for Trainees as well as for GPs of
Province - Facilitator/Coordinator for various workshops
arranged by the CPSF.

Arranging a full academic program for Trainees

Research Member of Editorial Board of Journal JPMI,
Reviewer of Journal of Medical Sciences, KMC Journal
CPSF Journal. Principal investigator for World Total
PTO

2. Brief account of achievements during the period supported by statistical data where possible. Targets given and actual performance against such targets should be highlighted. Reasons for shortfall, if any, may also be stated

پیش نظر عرصہ میں نمایاں کام کو اعداد و شمار کے ساتھ مختصر بیان کریں۔ اہداف اور کارکردگی کو نمایاں طور پر لکھیں۔ اہداف تکمیل نہ جانے کی وجہ بھی بیان کریں

The WOMAN TRIAL

Member of PAME. (Pakistan association of medical Editors)

A Partner for ICERD (AUDP (world diabetic foundations) to work on Gestational diabetes.

27 Published Papers. Two under publication.

Attended International and National Conferences.

Presented Paper in National Conferences Chairpersons in National Conferences.

Administrative All administrative affairs of department being.

Head of department - Committees,

PART III

Member of many Committees, Chairperson of medical Record Committee.

Started CPOE (online Pharmacy) with Pharmacy department in department.

(REPORTING OFFICER'S EVALUATION)

Has taken initiative to start new project

Please comment on the officer's performance on the job as given in Part II (2) with special reference to his knowledge of work, ability to plan, organize and supervise, analytical skills, competence to take decisions and quality and quantity of output. How far was the officer able to achieve the targets? Comment on the officer's contribution, with the help of statistical data, if any, in the overall performance of the organization. Do you agree with what has been stated in Part II (2)?

حصہ دوم (۲) میں بیان کی گئی کارکردگی کا جائزہ لیں۔ افسر کے علم، تنظیمی اور نگرانی کرنے کی صلاحیت، تجزیاتی مہارت اور فیصلہ کرنے کی صلاحیت کے متعلق رائے دیں۔ کارکردگی کے معیار و مقدار کے حوالے سے بھی رائے دیں۔ اہداف کو پورا کرنے میں افسر کس حد تک کامیاب رہا/ رہی۔ ادارے کی مجموعی کارکردگی میں افسر کے کردار کی اعداد و شمار کے حوالے سے نشاندہی کریں۔ کیا آپ حصہ دوم (۲) میں دی گئی معلومات سے متفق ہیں؟

She has achieved all the targets and a keen manager to develop the Department.

ATTESTED

2. Integrity (Morality, uprightness and honesty)
دیانت (راست بازی، ایمانداری)

Exemplary

3. Pen picture including the officer's strengths and weaknesses with focus on emotional stability, ability to work under pressure, communication skills and interpersonal effectiveness (Weakness will not be considered as adverse entry unless intended to be treated as adverse)

قلمی خاکہ: افسر کی خوبیوں اور کمزوریوں کا جائزہ لیں، خصوصاً جذباتی ٹھہراؤ، دباؤ کی حالت میں کام کرنے کی صلاحیت، رابطہ اور باہمی افہام و تفہیم پیدا کرنے کی صلاحیت بیان کریں (کوئی بھی کو اس وقت تک متنی تصور نہ کیا جائے جب تک رپورٹنگ افسر ضروری نہ سمجھے)

Very kind hearted and has
placed institute above everything

4. Area and level of professional expertise with suggestions for future posting
پیشہ دارانہ مہارت اور آئندہ تعیناتی کی نشاندہی

Very Secure further Managerial
Qualifications

5. Training and development needs
مزید تربیت کے لیے تجاویز

17

6. Overall grading
مجموعی درجہ

Exceeds midway	Very Good اعلیٰ	Good اچھا	Average اوسط	Below Average اوسط سے کم
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7. Fitness for promotion
ترقی کے لیے مناسبت

Comment on the officer's potential for holding a higher position and additional responsibilities
افسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں

Medical Director
Lady Reading Hospital
MTI Peshawar

Name of the reporting officer _____
(Capital letters) Muthe Law
رپورنگ افسر کا نام (دائیں حروف میں)

Signature _____
دستخط

Designation Medical Director
عہدہ

Date 24/4/18
تاریخ

ATTESTED

PART IV

حصہ چہارم

(REMARKS OF THE COUNTERSIGNING OFFICER)

(کاؤنٹرسائنگ افسر کی رائے)

1. How often have you seen the work of the officer reported upon?

افسر کا کام کس حد تک آپ کی نظر سے گزرتا رہا؟

Very frequently اکثر و بیشتر	Frequently ✓ اکثر	Rarely شاذ و نادر	Never بھی نہیں
---------------------------------	----------------------	----------------------	-------------------

2. How well do you know the officer? If you disagree with the assessment of the reporting officer, please give reasons

آپ افسر کو کس حد تک جانتے ہیں؟ اگر آپ رپورٹنگ افسر کی رائے سے متفق نہیں تو اس کی وجہ بیان کریں

I see her Frequently at work.
I tend to agree with the reporting officer

3. Overall grading

مجموعی درجہ

Very good ✓ اعلیٰ	Good اچھا	Average اوسط	Below Average اوسط سے کم
----------------------	--------------	-----------------	-----------------------------

4. Recommendation for promotion

ترقی کے لیے سفارش

(Comment on the officer's potential for holding a higher position and additional responsibilities)

(افسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں)

✓/ES

-18

5. Evaluation of the quality of assessment made by the reporting officer

رپورٹنگ افسر کے جائزہ کے معیار کے بارے میں کاؤنٹر سائنگ افسر کی رائے

Exaggerated
مبالغہ آمیز

Fair
مناسب

Biased
جانب دار

Name of the countersigning officer

(Capital letters)

کاؤنٹر سائنگ افسر کا نام (دائیں طرف سے)

Designation

عہدہ

Dean

Signature

دستخط

A. U. Khan
DEAN
Medical Teaching Institution
Lads Reading Hospital Peshawa

Date

تاریخ

8/5/18

PART V

حصہ پنجم

(REMARKS OF THE SECOND COUNTERSIGNING OFFICER (IF ANY))

دوسرے کاؤنٹر سائنگ افسر (اعراض موجودگی) کی رائے

Name _____

نام

Signature _____

دستخط

Designation _____

عہدہ

Date _____

تاریخ

ATTESTED

GUIDELINES FOR FILLING UP THE PER

- After initiation of their PER, the officers under report should immediately fill up the detachable 'certificate' giving names of the RO/CO and forward the same to the Officer Incharge of their respective confidential records. This exercise will ensure proper follow-up of the pending performance evaluation reports by the concerned Ministry/Division/Provincial Government etc.
- Forms should be filled in duplicate. Parts I and II are to be filled by the officer under report and should be typed. Part III will be filled by the Reporting Officer while the Countersigning/Second Countersigning Officers will fill Parts IV and V respectively.
- Each Division, Department, autonomous body and office etc. is required to prepare specific job descriptions giving main duties of each job to be mentioned in Part-II (1). The job descriptions may be finalized with the approval of the Head of the Organization or any person authorized by him.
- The officer under report should fill Part II (2) of the form as objectively as possible and short term and long term targets should be determined/assigned with utmost care. The targets for each job may be formulated at the beginning of the year wherever possible. In other cases, the work performed during the year needs to be specifically mentioned.
- Assessment by the Reporting Officers should be job-specific and confined to the work done by the officer during the period under report. They should avoid giving a biased or evasive assessment of the officer under report, as the Countersigning Officers would be required to comment on the quality of the assessment made by them.
- The Reporting Officers should carryout their assessment in Part III through comments against each characteristic. Their opinions should represent the result of careful consideration and objective assessment so that, if called upon, they could justify the remarks/comments. They may maintain a record of the work done by the subordinates in this regard.
- The Reporting Officers should be careful in giving the overall and comparative gradings. Special care should be taken so that no officer is placed at an undue disadvantage.
- The Countersigning Officers should weigh the remarks of the RO against their personal knowledge of the officer under report, compare him with other officers of the same grade working under different Reporting Officers, but under the same Countersigning Officer, and then give their overall assessment of the officer. In case of disagreement with the assessment done by the Reporting Officer, specific reasons should be recorded by the Countersigning Officers in Part IV (2).
- The Countersigning Officers should make an unbiased evaluation of the quality of performance evaluation made by the RO by categorizing the reports as exaggerated, fair or biased. This would evoke a greater sense of responsibility from the reporting officers.
- The Countersigning Officers should underline, in red ink, remarks which in their opinion are adverse and should be communicated to the officer reported upon. All adverse remarks whether remediable or irreparable should be communicated to the officer under report, with a copy of communication placed in the CR dossier. Reporting Officers should ensure that they properly counsel the officer under report before adverse remarks are recorded.
- The Reporting and Countersigning Officers should be clear, direct, objective and unambiguous in their remarks. Vague impressions based on inadequate knowledge or isolated incidents should be avoided.
- Reports should be consistent with the pen picture, overall grading and comparative grading.

IMPORTANT

- Parts I and II of the PER should be duly filled and dispatched to the Reporting Officer not later than the 15th of January. The ROs should forward the report to the Countersigning Officer within two weeks of receipt after giving their views in Parts III. The COs should then finalize their comments in Part IV within two weeks of receipt of PER. The Second Countersigning Officers, if any, should also complete their assessment within a period of two weeks.
- Name and designation of Reporting/Countersigning Officers should be clearly written. Comments should be legible and in the prescribed format and which can be easily scanned.
- Personnel Number is to be filled in by the officer under report, if allotted.
- Proforma has been devised in English/Urdu to provide flexibility to RO/CO in the choice of language.
- Comparative grading only applies to officers falling in very good, good and average categories. This grading would not apply to anyone falling in below average category in Part III (6).

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CERTIFICATE

Certified that I Prof. D. Sadakat Jabeen BPS - (20)
(Name of Officer) (Group/Service (BS)

have on 15/1/2019 submitted my Performance Evaluation Report
(Date)

to Medical Director MTI/CRH Peshawar
(Name/Designation of Reporting Officer)

My countersigning officer is Dean MTI/CRH Peshawar
(Name/Designation of Countersigning Officer)

*Professor Dr Sadakat Jabeen
Deptt. Obs/gynae MTI/CRH
Peshawar.*

Name/Designation/Department of Officer

Note:- This certificate is required to be dispatched by the officer being reported upon to the Officer Incharge entrusted with the maintenance of his/her C.R. Dossier on the same date the PER is forwarded to his/her reporting officer.

 **ATTESTED**

Guidelines 1

- 20

FOR OFFICERS IN BPS 19 & 20

CONFIDENTIAL

اسکیل ۱۹ اور ۲۰ کے افسران کے لیے

بصیغہ راز

GOVERNMENT OF N.-W.F.P.

حکومت صوبہ سرحد

Department/Office Obstetric/Gynaecology Service/Group Health
عکس ایف ڈی سرورس ایگروپ

PERFORMANCE EVALUATION REPORT

کارکردگی رپورٹ

FOR THE PERIOD 01.01.2018 TO 31.12.2018
۱ جنوری ۲۰۱۸ء تا ۳۱ دسمبر ۲۰۱۸ء

PART I

حصہ اول

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(مخاطب افسر خود پُر کریں)

1. Name (in block letters) SADAT JABEEN
نام (دائیں حروف میں)
2. Personnel number _____
انفرادی نمبر
3. Date of birth 04/03/1960
تاریخ پیدائش
4. Date of entry in service 1986
ملازمت اختیار کرنے کی تاریخ
5. Post held during the period (with BPS) Professor BPS (20)
پیش نظر عرصہ میں عہدہ (مع اسکیل)
6. Academic qualifications MBBS, FCPS
تعلیم
7. Knowledge of languages (Please indicate proficiency in speaking (S), reading (R) and writing (W)) (تولے (ب)، پڑھے (پ)، اور لکھے (ل) کی صلاحیت)
زبانوں کا علم
Urdu (S, R, W) English (S, R, W)
Dushted (S, R) Hindko (S, R)

ATTESTED

8. Training received during the evaluation period (Training courses attended earlier, if any, may please be listed separately on the back page of the report)

متعلقہ عرصہ کے دوران تربیت کی تفصیل (اس سے پہلے تربیتی کورسوں میں شرکت، رپورٹ کے صفحہ کی پشت پر درج کریں)

Name of course attended کورس کا نام	Duration with dates تاریخوں کے ساتھ دورانیہ	Name of institution and country ادارے اور ملک کا نام
MHR. Master in Health Research	- 2 years (Started in Nov. 2018)	Khyber Medical University Pakistan

9. Period served

عرصہ ملازمت

(i) In percent post

موجودہ عہدے پر

10 years

(ii) Under the reporting officer

one year

رپورٹنگ افسر کے ماتحت

PART II

حصہ دوم

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(متعلقہ افسر خود پر کریں)

1. Job description

ذمہ داریوں کی تفصیل

Clinical out-patient, inpatient cases, bed side rounds, management of the patients, all types of major, minor and laparoscopic Surgeries.

Academic Supervisor of FCPS, DGO, MCh, MRCoG. Training Examiner. FSPS Part II, IMM, DGO, MS/DGO at NIMS Islamabad. Director DGO Course, examiner undergraduate, KMC, AMC, KPMC. Pmc. Course director for intensive Part II FCPS. involved in arranging many workshops by department as well as CPSP. Full academic programme for department. Convener of FSPS Part II as well as a IMM (appointed by CPSP)

Research Member of Editorial board of JPAMI, Reviewer of CPSP Journal, JPAMI, Medical Affairs KMC, Principal investigator of Inland Trial (WOMAN Trial), Inland Trial 2

2. Brief account of achievements during the period supported by statistical data where possible. Targets given and actual performance against such targets should be highlighted. Reasons for shortfall, if any, may also be stated

پیش نظر عرصہ میں نمایاں کام کو اعداد و شمار کے ساتھ مختصر بیان کریں۔ اہداف اور کارکردگی کو نمایاں طور پر لکھیں۔ اہداف نامکمل رہ جانے کی وجہ بھی بیان کریں۔

Member of PAM (Pakistan Association of Medical Editors)

A Professor of ICCRD (World Diabetes Foundation)

For lectures on Gestational diabetes

21 Publications in various journals (in Journal of Ayub Medical College)

Attended and presented papers in National conferences

Attended international conferences.

Administrative - Being head of department all administrative affairs of department. Member of many hospital committees, Chief of Person of medical record committee. Started CPOE (computerized physician order entry).

Establishment of obs/gyn **PART III** Trn

حصہ سوم

(REPORTING OFFICER'S EVALUATION)

(رپورٹنگ افسر کا جائزہ)

1. Please comment on the officer's performance on the job as given in Part II (2) with special reference to his knowledge of work, ability to plan, organize and supervise, analytical skills, competence to take decisions and quality and quantity of output. How far was the officer able to achieve the targets? Comment on the officer's contribution, with the help of statistical data, if any, in the overall performance of the organization. Do you agree with what has been stated in Part II (2)?

حصہ دوم (۲) میں بیان کی گئی کارکردگی کا جائزہ لیں۔ افسر کے علم، تنظیمی اور نگرانی کرنے کی صلاحیت، تجزیاتی مہارت اور فیصلہ کرنے کی صلاحیت کے متعلق رائے دیں۔ کارکردگی کے معیار و مقدار کے حوالے سے بھی رائے دیں۔ اہداف کو پورا کرنے میں افسر کس حد تک کامیاب رہا/ رہی۔ ادارے کی مجموعی کارکردگی میں افسر کے کردار کی اعداد و شمار کے حوالے سے نشاندہی کریں۔ کیا آپ حصہ دوم (۲) میں دی گئی معلومات سے متفق ہیں؟

Agreed

ATTESTED

2. Integrity (Morality, uprightness and honesty)

دیانت (راست بازی، ایمانداری)

She is an upright &
honest officer

3. Pen picture including the officer's strengths and weaknesses with focus on emotional stability, ability to work under pressure, communication skills and interpersonal effectiveness (Weakness will not be considered as adverse entry unless intended to be treated as adverse)

قلمی خاکہ: افسر کی خوبیوں اور کمزوریوں کا جائزہ لیں، خصوصاً جذباتی ٹھہراؤ، دباؤ کی حالت میں کام کرنے کی صلاحیت، رابطہ اور باہمی افہام و تفہیم پیدا کرنے کی صلاحیت، میان کریں (کوئی کو اس وقت تک منفی تصور نہ کیا جائے جب تک رپورٹنگ افسر ضروری نہ سمجھے)

Excellent Communication
Excellent in conflict resolution
Excellent in time management

4. Area and level of professional expertise with suggestions for future posting

پیشہ دارانہ مہارت اور آئندہ تعیناتی کی نشاندہی

must remain as head of

Dept

5. Training and development needs

مزید تربیت کے لیے تجاویز

- 22

6. Overall grading

مجموعی درجہ

Very Good
اعلیٰ

Good
اچھا

Average
اوسط

Below Average
اوسط سے کم

7. Fitness for promotion

ترقی کے لیے مناسب

Comment on the officer's potential for holding a higher position and additional responsibilities

افسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں

Yes

Name of the reporting officer DR MIDN AHUWHTAR

(Capital letters)

رپورٹنگ افسر کا نام (دائیں حروف میں)

Signature [Signature]

Medical Director
Lady Reading Hospital
MTI Peshawar

Designation Medicine Director

عہدہ

Date 26-1-19

تاریخ

ATTESTED

PART IV

حصہ چہارم

(REMARKS OF THE COUNTERSIGNING OFFICER)

(کاؤنٹر سائننگ افسر کی رائے)

1. How often have you seen the work of the officer reported upon?

افسر کا کام کس حد تک آپ کی نظر سے گزرتا رہا؟

Very frequently اکثر و بیشتر	<input checked="" type="checkbox"/> Frequently اکثر	Rarely شاذ و نادر	Never کبھی نہیں
---------------------------------	--	----------------------	--------------------

2. How well do you know the officer? If you disagree with the assessment of the reporting officer, please give reasons

آپ افسر کو کس حد تک جانتے ہیں؟ اگر آپ رپورٹنگ افسر کی رائے سے متفق نہیں تو اس کی وجہ بیان کریں

Agreed

3. Overall grading

مجموعی درجہ

<input checked="" type="checkbox"/> Very good اعلیٰ	Good اچھا	Average اوسط	Below Average اوسط سے کم
--	--------------	-----------------	-----------------------------

4. Recommendation for promotion

ترقی کے لیے سفارش

(Comment on the officer's potential for holding a higher position and additional responsibilities)

(افسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں)

- 23

5. Evaluation of the quality of assessment made by the reporting officer

رپورنگ افسر کے جائزہ کے معیار کے بارے میں کاؤنٹر سائننگ افسر کی رائے

Exaggerated
مبالغہ آمیز

Fair
مناسب

Biased
جانب دار

Name of the countersigning officer

(Capital letters)

کاؤنٹر سائننگ افسر کا نام (دائخ حروف میں)

Designation

عہدہ

Signature

دستخط

Date

تاریخ

17/1/2019

PART V

حصہ پنجم

(REMARKS OF THE SECOND COUNTERSIGNING OFFICER (IF ANY))

دوسرے کاؤنٹر سائننگ افسر (بشرط موجودگی) کی رائے

Name

نام

Designation

عہدہ

Signature

دستخط

Date

تاریخ

ATTESTED

GUIDELINES FOR FILLING UP THE PER

- After initiation of their PER, the officers under report should immediately fill up the detachable 'certificate' giving names of the RO/CO and forward the same to the Officer Incharge of their respective confidential records. This exercise will ensure proper follow-up of the pending performance evaluation reports by the concerned Ministry/Division/Provincial Government etc.
- Forms should be filled in duplicate. Parts I and II are to be filled by the officer under report and should be typed. Part III will be filled by the Reporting Officer while the Countersigning/Second Countersigning Officers will fill Parts IV and V respectively.
- Each Division, Department, autonomous body and office etc. is required to prepare specific job descriptions giving main duties of each job to be mentioned in Part-II (1). The job descriptions may be finalized with the approval of the Head of the Organization or any person authorized by him.
- The officer under report should fill Part II (2) of the form as objectively as possible and short term and long term targets should be determined/assigned with utmost care. The targets for each job may be formulated at the beginning of the year wherever possible. In other cases, the work performed during the year needs to be specifically mentioned.
- Assessment by the Reporting Officers should be job-specific and confined to the work done by the officer during the period under report. They should avoid giving a biased or evasive assessment of the officer under report, as the Countersigning Officers would be required to comment on the quality of the assessment made by them.
- The Reporting Officers should carryout their assessment in Part III through comments against each characteristic. Their opinions should represent the result of careful consideration and objective assessment so that, if called upon, they could justify the remarks/comments. They may maintain a record of the work done by the subordinates in this regard.
- The Reporting Officers should be careful in giving the overall and comparative gradings. Special care should be taken so that no officer is placed at an undue disadvantage.
- The Countersigning Officers should weigh the remarks of the RO against their personal knowledge of the officer under report, compare him with other officers of the same grade working under different Reporting Officers, but under the same Countersigning Officer, and then give their overall assessment of the officer. In case of disagreement with the assessment done by the Reporting Officer, specific reasons should be recorded by the Countersigning Officers in Part IV (2).
- The Countersigning Officers should make an unbiased evaluation of the quality of performance evaluation made by the RO by categorizing the reports as exaggerated, fair or biased. This would evoke a greater sense of responsibility from the reporting officers.
- The Countersigning Officers should underline, in red ink, remarks which in their opinion are adverse and should be communicated to the officer reported upon. All adverse remarks whether remediable or irremediable should be communicated to the officer under report, with a copy of communication placed in the CR dossier. Reporting Officers should ensure that they properly counsel the officer under report before adverse remarks are recorded.
- The Reporting and Countersigning Officers should be clear, direct, objective and unambiguous in their remarks. Vague impressions based on inadequate knowledge or isolated incidents should be avoided.
- Reports should be consistent with the pen picture, overall grading and comparative grading.

IMPORTANT

- Parts I and II of the PER should be duly filled and dispatched to the Reporting Officer not later than the 15th of January. The ROs should forward the report to the Countersigning Officer within two weeks of receipt after giving their views in Parts III. The COs should then finalize their comments in Part IV within two weeks of receipt of PER. The Second Countersigning Officers, if any, should also complete their assessment within a period of two weeks.
- Name and designation of Reporting/Countersigning Officers should be clearly written. Comments should be legible and in the prescribed format and which can be easily scanned.
- Personnel Number is to be filled in by the officer under report, if allotted.
- Proforma has been devised in English/Urdu to provide flexibility to RO/CO in the choice of language.
- Comparative grading only applies to officers falling in very good, good and average categories. This grading would not apply to anyone falling in below average category in Part III (6).

Per guidelines



- 24

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

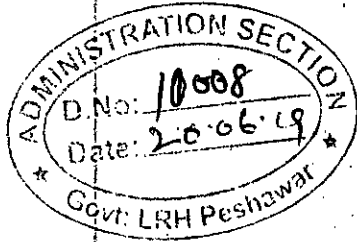
Dated Pesh: the 14th June 2019

NOTIFICATION

Annex F

No. SOH-I/HD/5-40/2019. The deputation of the following Professors (Civil Servants), working in MTI LRH Peshawar is hereby terminated henceforth as a consequence of the decision of the BoG MTI LRH as per provision contained in Section 17 (3b) of Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015 conveyed vide chairman BoG MTI letter No.41/BOG MTI dated 18/5/2019:-

1. ✓ Dr. Sadaqat Jabeen
Professor of Gynaecology (BS-21), MTI, LRH
2. Dr. Riaz Anwar,
Professor of Cardiovascular (BS-21), MTI, LRH



SECRETARY HEALTH

Endst No and date even

- C.C
1. Accountant General, Khyber Pakhtunkhwa.
 2. Chairman, BoG, MTI, LRH Peshawar w/r to his letter No.41/BoG/LRH-MTI dated 18th May 2019
 3. Dean, MTI, LRH Peshawar.
 4. Hospital/Medical Director, MTI, LRH Peshawar.
 5. PSO to Chief Minister, Khyber Pakhtunkhwa.
 6. PSO to Chief Secretary, Khyber Pakhtunkhwa.
 7. PSO to Minister Health, Khyber Pakhtunkhwa.
 8. ✓ Doctors concerned with the direction to report to Health Department for further posting/transfer.
 9. PS to Secretary Health Department.

ATTESTED

[Signature]
Section Officer-I

Received today
25/6/2019

[Signature]

No. 93546/GAU/LRH,

Dated: 02/7/2019

UNDER-PROTEST

To,

Secretary to Government of Khyber Pakhtunkhwa,
Health Department, Peshawar.

Annex "G"

Subject: SUBMISSION OF ARRIVAL REPORT UNDER COMPULSION.

Respected Sir,

I, Professor Dr. Sadaqat Jabeen, Professor of Gynecology (BS-20), MTI, LRH, submit herewith my arrival report- with reference to your Notification No. SO H-1HD/5-40/2019, Dated 14th June 2019 and with reference to the Endorsement No 14872-8 HRM-LRH, Dated 20/06/2019 where in I have been directed to report to Health Department because my deputation in MTI LRH has been terminated by the decision of the BOG MTI LRH in exercise of Section 17(3b) of Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015, as mentioned in the notification under reference, and as conveyed to you vide chairman BOG MTI letter No. 41/BOG MTI Dated 18/5/2019,- **under Extreme Compulsion and under protest.** Being an obedient and disciplined Civil Servant for the purpose of the record, as the decisions and actions conveyed vide notification under reference are void and based on malafide intentions and in flagrant violation of my statutory and constitutional rights as a civil servant and as a law abiding citizen of the Islamic Republic Of Pakistan, on the following Grounds:

1. I was appointed as a Senior Registrar on the recommendations of Public Service Commission on 8 / 8/ 1997 and was appointed on promotion as Professor of Gynae on 14th March 2009 in LRH. Since then I had been rendering service as surgeon, consultant, teacher, researcher, supervisor, as member of various committees and as Head of the Department with entire satisfaction of my conscience and with sense of holding myself accountable in front of Allah and public at enlarge.
2. As per proviso one to Section 10 of Civil Servants Act, 1973 a Civil Servant recruited specifically for a post in an area or place that civil servant shall not be subjected to be directed to serve somewhere else. I was recruited for LRH and was appointed by promotion as Assistant Professor, Associate Professor and professor in LRH. The performance of my services is evident from my Annual confidential reports and my references reflecting that I was performing my duties to the best of my capabilities in Public Interest as a Physician surgeon and also as a supervisor of College of Physicians and Surgeons. All ACR's are awarded as **very good and excellent** and for these very reasons my promotion was never deferred by the PSB. **(Please see attached ACR's)**

ATTESTED

- 3: I have been surrendered under section 17 (3B) of MTI Act which is not proper legal provision Section 17(3A) of the Act, because section 17 (3B) pertains to those civil servants who were not serving in LRH at the time MTI Act was notified. I was appointed for LRH, hence the notification is defective and illegal and unauthorized in this perspective. In the said Notification of my transfer, the Health department has given reference of Section 17 (3B) of MTI Act 2015 which reflects section 11A of civil servants regarding rendering services surplus of civil servant due to any Government decision. In the same section 11 A of civil servants Act 1973 it is also mentioned that if the services of Civil Servant are rendered surplus he/she will be appointed to the post carrying basic pay scale equal to post held by her. I am a Professor, Surgeon and a Physician in BPS-20, there is no post in the entire health department of my status except the post of Professor.
4. Moreover in the capacity of a notified Supervisor of the CPSP I am supervisor with twenty six trainees of the various post graduate training programmes. My transfer from LRH will definitely affect their training due to non-availability of their supervisor eventually making their future be at risk.
5. As Such if I am reduced in rank for posting it will be violation of Section 12 (2) of Civil Servants Acts, moreover section 12 (3) also clearly states that no civil servant shall be reduced in Rank until he/she has been given reasons/ opportunity of showing cause against the action proposed to be taken against her. Unfortunately my transfer is made just with a stroke of pen **without giving me any reasonable chance to explain my position for any cause of transfer.**
6. Even for posting purpose if I am transferred to another city it will be not only violation of civil servants Act as I am retiring within six months but also it will be violation of recent domicile policy of Health department which states to post the doctor to the district of his/her domicile.
7. Further to that my posting to another district will be badly affecting the health services of patients who are waiting anxiously for their booked surgeries to be performed in next six months and routine emergency surgeries taking place on alternate days. In addition to that the services of my O.P.D patients will be also badly affected who have developed their trust on me since 3 decades. Moreover even if my patients are distributed to other units for performing surgeries it won't be possible as other units are also saturated and patients are waiting long for their turn to be operated thus it will create chaotic situation eventually affecting patient's services and safety which will be totally against public interest for which MTI ACT was promulgated.

ATTESTED

On the basis of the above noted grounds and others I want to bring it on the record that my arrival report is purely is just in compliance of the order of the competent authority and under protest because I am a disciplined civil servant. Here I want to place it on record that I am being compelled to obey an order which is based on malafide and personal vendetta. I also place it on record that my constitutional right is being violated and I being, as a female, compelled to act against my legal and constitutional rights.

I also want to place it on record that I reserve my rights of seeking justice at appropriate time as not only mentioned in its reported judgment (2019 SCMR-998 & other judgments) of the Superior Courts of Pakistan.

Your 's Obediently

Prof. Dr. Sadaqat Jabeen (BPS-20)

Sadaqat Manzil, Noor Street, Durri
Kamil Road, Zaryab Colony, Faqir
Abad, Peshawar.

drsadaqatjabeen@gmail.com

Cell # 0321-9152822

Endst: Even date & No. 938-46/404/WRH Dt: 2/7/2019

Copy to:

1. Accountant General Khyber Pakhtunkhwa.
2. Chairman BOG MTI LRH.
3. Dean MTI LRH Peshawar. It is requested that it may be considered that I have relinquished the charge of my post in MTI LRH with immediate effect which is the date mentioned above in the for-none.
4. Hospital/Medical Director MTI LRH Peshawar.
5. PSO to Chief Secretary Khyber Pakhtunkhwa Peshawar.
6. PSO to Minister Health Khyber Pakhtunkhwa.
7. PS to Secretary Health Department.
8. Chairman Chief Minister Inspection Team Khyber Pakhtunkhwa Peshawar.

Prof. Dr. Sadaqat Jabeen (BPS-20)

ATTACHED

To,

The Chief Minister
Khyber Pakhtunkhwa Peshawar

(Through Proper Chanel)

Annex F

28

Subject: SUBJECT: REVIEW PETITION UNDER SECTION 22 OF CIVIL SERVANT ACT, 1973 READ WITH RULE 3 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPEAL) RULES, 1986 AGAINST THE ORDER VIDE NOTIFICATION NO. SO H-1HD/5-40/2019, Dated 14th June 2019.

Respected Sir

I am a civil servant and the senior most Professor of Gynecology (BS-20) in the province and was working in MTI, LRH, and I was directed by secretary Health vide notification (Copy Enclosed) in the subject to report to Health Department because my deputation in MTI LRH has been terminated by the decision of the BOG MTI/LRH in exercise of Section 17(3b) of Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015, as mentioned in the notification under reference without giving any legal grounds.

Being a disciplined civil servant I submitted my arrival report to the Health Department vide my arrival report on 02/07/2019, **Under protest.** (Copy enclosed)

Being aggrieved by this illegal and un warranted order I am submitting my review petition as the notification under reference is void, based on malafide intentions & ill-will, discriminatory, and tantamount to self incriminations; and badly affecting public interests at large; an example of un-judicious exercise of powers in arbitrary manner is utter disregard of law and public interests: based on malice and in flagrant violation of my statutory and constitutional rights as a civil servant and as a law abiding citizen of the Islamic Republic Of Pakistan, on the following Grounds:-

- 1) I was appointed as a Senior Registrar on the recommendation of Public Service Commission on 8 / 8/ 1997 (Copy enclosed) and was appointed on promotion as Professor of Gyne & Obs on 14th March 2009 (copy enclosed) in LRH. Since then I had been rendering service as surgeon, consultant, teacher, researcher, and supervisor, as member of various committees and as Head of the Department with entire satisfaction of my conscience and with sense of holding myself accountable before Allah.
- 2) As per proviso one to Section 10 of Civil Servants Act, 1973 a Civil Servant recruited specifically for a post in an area or place that civil servant shall not be subjected to be directed to serve somewhere else. I was recruited for LR and was appointed by promotion as Assistant Professor and finally as professor in LRH.
- 3) I was working as HOD, (Obs & Gyne) LRH since 2012.
- 4) I am a recognized Supervisor/Examiner of CPSP in addition to having the honor of being the holder of the various important positions on the various Professional bodies at Pakistan and Regional level as Secretary of the Faculty Obs & Gyne CPSP, as Vice President of Society of Obs & Gyne Pakistan, Member of the Society of the South Asian Federation of Obs & Gyne (SAFOG). I also worked as a member of various policy making committees in LRH and Health Department.

ATTESTED

H

- 5) I was selected as Chairperson Obs/Gyne by search committee according to MTI Rules/Regulators being at the top of the merit list yet the appointment was refused by competent authority on flimsy grounds. I challenged the order through Writ Petition No. 4690-P/2016 in Peshawar High Court which was accepted and court restored my status of chairperson by judgment through Writ Petition No.4765-P/2016 dated 12.04.2017.
- 6) I resisted shifting of the Obs & Gyne Department of LRH to Molvi Amir Hospital, as it was not logical and sensible decision.
- 7) My transfer from LRH is causing lot of problems.
- 8) I am the supervisor of at least 30 Trainee (TMO) at the moment who are preparing for FCPS part II exams, by my transfer the education/Training and academics performance of these TMO's has been adversely being affected which is a national loss as well as a loss to the health institutions. Moreover, due to my transfer the patients will suffer whose surgeries and treatments were planned by me and who cannot afford treatment in private hospitals.
- 9) I was selected as Principal Investigator of a World Trial WOMAN 2 Trial, and in Khyber Pakhtunkhwa only LRH was registered for that trial which is going to be start very soon. Now there is chance of withdrawal from that Trial. I was the Principal Investigator of previous one Large International Woman Trial, which was published in LANCET journal, showing my contribution from LRH at International level (LRH is the only Hospital recognized by the forum).
- 10) As Professor/Civil Servant I have been discriminated as about a dozen Civil Servant Professors have been allowed to stay, whereas I have been transferred without any grounds.
- 11) There are only eight (08) months that I will reach the age of superannuation and will retire from service, the policy, as per practice, is that during the last year of Service the Civil Servant is not transferred and if transferred at all, He/She is posted to home district. I belong to Peshawar; therefore, my transfer under Transfer Policy is legally not maintainable.
- 12) I have been surrender under section 17(3B) of MTI Act which is not proper legal provision. Section 17(3A) of the Act. Because section 17(3B) pertains to those civil servants who were not serving in LRH at the time MTI Act was notified. I was appointed for LRH, hence the notification is defective and illegal and unauthorized in this perspective.
- 13) Moreover in the capacity of a notified Supervisor of the CPSP I am supervisor twenty 30 trainees of the various post graduate training programs.
- 14) Though not very visible but political motives have also played the role in my transfer.
- 15) My conduct as a Civil Servant is evident from my submission of arrival report in compliance of the impugned notification despite of feeling aggrieved on the above noted grounds which I mentioned in my arrival report as well. This is an evidence also that being a Civil Servant I was subjected to a situation wherein I acted against my own legal rights and judicious interests to avoid the chances of disciplinary proceedings against me because the persons who maneuvered my illegal posting could go to any extent against me being a law abiding and obedient Civil Servant. My performance as a Civil Servant and Professional Academician and a Surgeon is known to everyone and could also be confirmed from my performance evaluation annual reports.

ATTACHED

On the basis of the above noted grounds and others I want to bring it on the record that my arrival report is purely just in compliance of the order of the competent authority because I am a disciplined civil servant. Here I want to place it on record that I am being compelled to obey an order which is based on malafide and personal vendetta. I also placed it on record that my constitutional right is being violated and I am being, as a female, compelled to act against my legal and constitutional rights.

In view of the above noted grounds and many others I am inviting your kind attention to intervene as a Chief Executive of the Province to delivered me justice and restore my legal position which I earned through consistent efforts, zeal and interest during my entire professional life.

Your's Obediently

Prof. Dr. Sadaqat Jabeen (BPS-20)
(Former Head of Department Obs & Gyne)

Sadaqat Manzil, Noor Street, Durri Kamil
Road, Zaryab Colony, FaqirAbad, Peshawar.
drsadaqatjabeen@gmail.com / Cell # 03219152822

Endst: Even date & No.

Copy to:

1. PSO to Chief Secretary Khyber Pakhtunkhwa -Peshawar.
2. PSO to Minister Health Khyber Pakhtunkhwa.
3. PS to Secretary Health Department.

Sadaqat Jabeen
22/7/2019

Prof. Dr. Sadaqat Jabeen (BPS-20)

ATTESTED



Annex I²
- 31

ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

ATTESTED

Posting and Transfer

- 32

Statutory Provision.**Section 10 of the NWFP Civil Servants Act, 1973.**

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

Posting/transfer policy of the Provincial Government.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas.
- v) ⁷⁹[]

79 Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rule of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make Posting/Transfer subject to observance of the policy and rules.

ATTESTED

- vi) ⁸⁰While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, NWFP needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, NWFP shall be obtained.

Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officers/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/ transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement

⁸¹ DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

- xii) In terms of Rule 17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat	
1. Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2. Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3. Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat	
1. Secretaries	Chief Secretary with the approval of the Chief Minister.
2. Other Officers of and above the rank of Section Officers:	
a) Within the Same Department	Secretary of the Department concerned.
b) Within the Secretariat from one Department to another.	Chief secretary/Secretary Establishment.
3. Officials up to the rank of Superintendent:	Secretary of the Department concerned.
a) Within the same Department	Secretary of the Department in consultation with Head of Attached Department concerned.
b) To and from an Attached Department	
c) Within the Secretariat from one Department to another	Secretary (Establishment)

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:
- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/ officials be considered.
 - b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

81 Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

ATTESTED

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posting/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule – IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S.No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government.
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government.
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed/implemented.

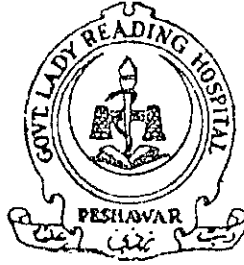
5. All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

(Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

DEPARTMENT OF OBSTETRICS AND GYNAECOLOGY

GRADUATE MEDICAL INSTITUTE, LADY READING HOSPITAL, PESHAWAR – PAKISTAN

Dr. Sadaqat Jabeen
M.B.B.S., F.C.P.S. (PAKISTAN)
HEAD OF DEPARTMENT &
Incharge Gynae "A" Unit, PGMI,
Lady Reading Hospital, Peshawar.
GAU/LRH, Peshawar



Telephone Office:

9211430/Ext.3129

E. Mail Address:

Sadaqat_jabeen@yahoo.com

Dated: 28/07/2016

-34
Ameer J

The Director,
Medical Teaching Institution,
Lady Reading Hospital,
Peshawar.

Subject: APPLICATION FOR CHAIRPERSON OF DEPARTMENT OF GYNAE & OBSTETRICS

Respected Sir,

Reference to your letter No.25686-90, dated 25/7/2016, I offer my services for the future chairman of department of gynae & obstetrics. Presently I am working as Professor and Incharge Gynae A Unit and head of department of Gynae & Obstetrics, Medical Teaching Institute, Lady Reading Hospital, Peshawar. My detailed C.V. and list of my referees is attached.

The reasons why should be I considered for Chairman Department of Obstetrics & Gynaecology.

I am managerial and dedicated medical professional with outstanding communication, teaching and managerial skills. I have been involved in numerous academic activities of the department. I am supervisor and examiner for FCPS/MCPS/DGO/MRCOG/MS and undergraduates for the last 12 years. In recognition of my services CPSP has nominated me as external examiner for CPS Bangladesh this year. The number of the trainees from 2013 to date is 35 and House Officers are 61.

As for as patient care is concerned besides routine patients care I have introduced and implemented important protocols/guidelines in the unit, audit and statistical meeting is weekly done. Endoscopic surgery (Laparoscopy/Hysteroscopy) has been started. Infertility/Diabetic and Endocrinology Clinic and Urogynae Clinic has been started in the department. Some work has been started for establishment of Fetal Medicine Clinic, for example high risk antenatal clinic in OPD. Arrangement for Doppler Ultrasound in the unit has been made and the Senior Registrars are being trained in fetal ultrasound and monitoring. In near future planning to start chorionic villus sampling. With the help of RAHA and UNHCR renovation of Gynae O.T. and Labour Rooms has been done (2015-2016). I have registered my unit with Heart File since 2013 for free treatment of poor patients. With the collaboration of I.T. Department of Lady Reading Hospital, software for the department was designed and our department was the first to start electronic record keeping of admitted patients and making discharge slips.

I remained Chairperson of Society of Obstetrics & Gynae Peshawar Chapter for the last 6 years and also member of guidelines committee of the society. I attended/presented paper/was chairperson and guest speaker in many national conferences. Recently I have been invited as a Guest Speaker in international Diabetes and Endocrine Congress at Karachi by BIDE from 19th-21st August 2016. Rest of details is in my detailed C.V.

Please acknowledge

Regards,

Sadaqat Jabeen
28/7/2016

ATTESTED

Prof. Dr. Sadaqat Jabeen
Incharge & Head of Department,
Gynae A Unit, MTI, LRH, Peshawar.

OFFICE OF THE DEAN
LADY READING HOSPITAL-MTI PESHAWAR

-35

No. 1165-67/LRH/Dean

Date .28/11/2016

To

The Chairman Search Committee
for appointment of Department Chairperson
Gynaecology/ Obstetrics

Amr ^{SR} K

Subject: APPOINTMENT OF DEPARTMENTAL CHAIRMAN

Recommendations of your search committee for appointment of department chairperson were received at the DEAN office on dated 31/10/2016. I appreciate your commitment and devotion in accomplishing this difficult task meticulously and transparently.

In accordance with the regulations para 21 (ix) reproduced as below:-

"The committee will make its recommendation to the Dean who may accept or reject it. In the event of rejection, the Dean will provide a written explanation for his action to the search committee, which will then proceed to recommend another candidate following the procedure mentioned above".

Moreover, in accordance with the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015 para 8 (5) reproduced as below:-

"The Chairperson of various departments for Medical Institutions shall be appointed by the board for a period of three years through merit-cum-seniority based process, from amongst the medical faculty on such terms and conditions and in such a manner as may be prescribed."

However you are hereby informed that the competent authority did not approve your recommendation and decided to re-advertise the position with the following comments.

Your committee recommended **Prof. Dr Sadaqat Jabeen** for Chairperson of Gynaecology/ Obstetrics Department. Although she was the only candidate for the chairperson position but her involvement in the strikes against MTI reform Act and complaint against her by her junior staff to the chairman BoG and her response in a manner was considered unbecoming of a chairman. Her response to the proposal of shifting Gynaecology department to Molvee Ji Hospital was also considered inappropriate and derogatory to the progressive vision of LRH, MTI Peshawar.

Your are therefore requested that as per Regulations 21 (ix) to arrange for re-advertisement for this positions and send your request to Director HR who will arrange the advertisement in the National/ International news papers.

Copy for information to:

1. Director HR
2. Secretary to Dean

Amr K

Dean,
Lady Reading Hospital- MTI
Peshawar

ATTESTED

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Annex L

Ref.No: 350/946/1024

Dated: 25/11/2016

-36

To:

The Dean,
MTI, Lady Reading Hospital,
Peshawar.

Subject:

REQUEST FOR CERTIFIED COPIES OF
RECOMMENDATION OF SEARCH COMMITTEE
MEETINGS FOR THE POST OF CHAIRMAN OF Gynae &
Obs MTI LRH

No.1 Dated 19/09/2016

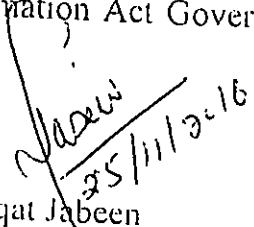
No.2 Dated 25/10/2016

Dear Sir,

In reference to above subject I will be thankful if you can provide me the certified copies of the *recommendations* and all other relevant documents of both search committees meetings held dated 19/09/2016 and 25/10/2016.

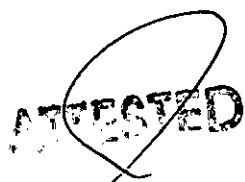
This request is made under the light of Right to Information Act Government of Khyber Pukhtunkhwa.

Thanking you


25/11/2016
Prof. Dr. Sadaqat Jabeen
Candidate for the post of Chairman
Department Gynae & Obs MTI, LRH

Copy to:-

DMS (Litigation)/PIO, MTI, Lady Reading Hospital, Peshawar.


ATTESTED

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Annex "M"

To,

The Director Human Resources,
Medical Teaching Institution,
Lady Reading Hospital,
Peshawar.

Subject: APPLICATION FOR THE POST OF CHAIRMAN OF GYNAE & OBSTETRICS
MEDICAL TEACHING INSTITUTION, LADY READING HOSPITAL, PESHAWAR
UNDER PROTEST WITH REFERENCE TO ADVERTISEMENT DAILY MASHRIQ
DATED 02-12-2016.

Dear Sir,

In reference to above subject I am applying for the post of chairman Gynae & Obstetrics Medical Teaching Institution, Lady Reading Hospital, Peshawar **under protest** for which I have already been recommended twice by two different search committees notified by Dean Medical Teaching Institution, Lady Reading Hospital, Peshawar.

I am applying for this post **under protest** and just to safeguard my rights that are accrued to me in result of last round of recommendation by search committee where I was recommended by concerned search committee and refused illegally for reasons that are totally extraneous to rules and regulations.

Regards.

Prof. Dr. Sadaqat Jabeen
Incharge & Head of Department,
Gynae A Unit, MTI, LRH, Peshawar.

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Judgment Sheet

-38

IN THE PESHAWAR HIGH COURT,
PESHAWAR

(Judicial Department)

WP No. 4690-P/2016

Dr. Mehfooz Hussain

Vs

Khyber-Pakhtunkhwa through Secretary to Govt.

Health Department, Peshawar & others

JUDGMENT

Date of hearing. 12.04.2017

Petitioner (s) by: M/s. Shumail Ahmad Butt & A.Rahim Khan
Jadoon, advocates

Respondent (s) by: M/s Shakeel Ahmad, Advocate & Mr. Moin-
uddin Hamayun, Assistant AG.

MUHAMMAD YOUNIS THAHEEM, J.-

Through this single judgment we propose to decide the instant writ petition alongwith WP No.4765-P/2016 titled as *Prof. Dr. Sadaqat Jabeen Vs Govt. of Khyber Pakhtunkhwa & others* and ~~WP No.4777-P/2016~~ titled *Dr. Musa Kalim Vs Govt. of Khyber Pakhtunkhwa & others*, as all these petitions involving common question of law and facts.

2. Brief facts of each petition are as under:

i) WP No.4690-P/2016: The petitioner namely Dr. Mehfooz Hussain in response to a circular dated

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18.07.2016 issued by respondent No.2 inviting applications for appointments for different positions of Chairman of departments from entire faculty of LRH, MTI Peshawar. The petitioner applied against the post of Chairman of Ophthalmology Department, other petitioners of connected petitions also applied against their respective post for which they consider themselves eligible and the Search Committee recommended petitioner for the appointment as Chairman, Department of Ophthalmology. The same recommendations of search committee received at Dean Office on 25.10.2016 but were not accepted and were rejected by the Dean by declaring petitioner as unsuitable, remain involved in the activities against the MTI reforms Act and such was the explanation for rejection of said recommendations. The petitioner prayed for setting aside of impugned actions and rejection of the recommendations of the Chairman

Search Committee vide the impugned letter dated 28.11.2016 issued by the Dean with prayer that it be declared null and void, against law, illegal, without lawful authority, caused miscarriage of justice and of no legal effects upon the rights of petitioner and writ be issued by directing respondents particularly Dean to

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accept said recommendations of such committee and appoint petitioner as prayed for.

ii) *WP No.4765-P/2016*: The petitioner Mst. Prof. Dr. Sadaqat Jabeen also applied for appointment as Chairman Gynecology and Obstetrics Department in response to same Circular as discussed above and was recommended after completion of legal process for selection by the Search Committee vide letter received to the Dean on 31.10.2016 but said recommendations by the said committee were rejected by the Dean vide impugned letter dated 28.11.2016 on the charges that she remain involved in strikes against MTI reforms Acts, there were complaints against her by her junior staffs, her opposition to the proposal of shifting of Gynecology Department to Molvi Jee Hospital etc and this was the explanation for rejection of the recommendations of committee.

iii) *WP No.4777-P/2016*: Petitioner namely Musa Kaleem in response to the said Circular, applied for the appointment of Chairman of Pediatric department and after adopting due process of selection was recommended by the said Search Committee to the Dean for his appointment as Chairman Pediatric Department on 02.11.2016 but Dean in spite of acting upon the

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recommendations of Search Committee rejected the recommendations by forwarding explanation that petitioner was unsuitable for the position of Chairman in view of lack of scholarship with the charges of his involvement in Anti MTI reforms activities, who became instrumental in delaying the implementation of said reforms with additional charges that he indulged in litigation by challenging the MTI reforms Act before the Court and instigated employee of HMC for strike.

3. The petitioners prayed for the relief by declaring the acts and impugned rejection and re-advertising of same positive impugned letter dated 28.11.2016 as null and void, explanation for rejection is without any cogent and justifiable reasons lacking fairness and proof, without lawful authority, seeking relief for issuance of writ, directing the respondents to accept the recommendations of said committee and appoint petitioners against the posts of Chairman to the respective departments as prayed for by the petitioners of each petition.

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4. Comments were called from respondents No.3 & 4 in the above petitions who submitted their comments alongwith certain documents in their support

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and supported the impugned actions and explanation for rejection of recommendations held by Search Committee vide office letter dated 28.11.2016 by the Dean/respondents.

5. Arguments heard. Record perused.

6. From the submissions made before this Court and perusal of record, the question for determination before this Court is as to whether the explanations forwarded by Dean for rejection under authority vested in him by MTI Regulation, 2015 are valid, reasonable within the bounds of law, based on principle of justice, justifiable, speaking and in accordance, with circular, regulations, equity, good conscience and law, so this Court considered the explanation for rejection of recommendations from all aspects thoroughly alongwith regulations, and law. During course of arguments, learned counsel for petitioners produced copy of recommendations of Search Committee for the selection of Departmental Chairmen according to which Dean of LRH, MTI, Peshawar constituted a Search Committee comprising of Professor Sajjad Muhammad Khan as Chairman, Professor Dr. Mukhtiar Zaman as Medical Director, Professor Rehana

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Rahim, Professor Muhammad Amjad Taqweem and Associate Professor Mian Amjad Ali as core members and a number of co-opted members from each departments for the respective Chairman for interviews according to regulations. Same document was not objected and was not annexed with petition as per contention of learned counsel, copies were refused and now they became successful to obtain these copies under access to information enactment. The said committee after completing process of pre-interview ranking by examining their CVs in the light of criteria circulated by the Dean, interviewed the candidates on 18th August, 2016. The procedure governing process of appointments of Department's Chairman provided under Regulations 21 (ix) of Lady Reading Hospital Medical Teaching Institute Regulations.2016 is reproduced below:

"IX) APPOINTMENT OF DEPARTMENT CHAIRMAN.

The Dean/Principal will form a search committee to recommend candidates for the post of each Department Chairman. The committee will consist of one faculty member from the concerned department and four faculty members from different departments, ensuring that the clinical and basic science departments are each represented by at least one member, except in the case of the Lady Reading Hospital, faculty members from the

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Basic Science can only be included when a Basic Medical Sciences department is affiliated with the Hospital. The committee will also include the Medical Director of the Hospital or his nominee. The dean/Principal will appoint a Chairman from amongst the members of the committee. The search committee will invite applications and proceed as in 4 (d) to (f) of the Regulations. The committee will make its recommendation to the Dean who may accept or reject it. In the event of rejection, the Dean will provide a written explanation for his action to the search committee, which will then proceed to recommend another candidate following the procedure mentioned above.

(under lining is ours to emphasize)

7. So after following the relevant procedure under above cited regulations, scrutinizing qualifications of candidates, upon completion of selection process and interview forwarded these recommendations to the Dean and when said Dean received recommendations of the Search Committee about petitioners, the Dean/respondent No.3 himself in his letter dated 28.11.2016 in the very first paragraph has appreciated the task of Search Committee with positive notes, "its commitment and devotion in accomplishing the job of recommendation in a very meticulously and transparent manner." So it was necessary for him as an authority to have forwarded such believable, unbiased

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explanations with proofs for rejection of recommendations about the unsuitability of the petitioners for the posts which are missing in the explanations note forwarded, either appended with the record or argued before this Court to satisfy the judicial conscience of this Court.

8. So far as the other explanation forwarded about the active involvement in activities against MTI reforms Act is concerned, the filing of constitution petitions either for challenging varies of ibid Act or for seeking other reliefs is no good ground for rejection of recommendations which amounted depriving eligible candidates for appointment against positions of concerned departments. Moreover, it was not mentioned in the circular, Regulations that any candidate who had invoked the constitutional jurisdiction by filing writ petition, would be barred to apply for the concerned posts. So explanations forwarded being subjective in nature are based on misconceptions, misconceived against law, circular and Regulation and are without support of any valid proof recognized under the law, as petitioners are neither convicted persons from any Court of law nor their educational degrees or other testimonial

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has been found fake nor has been declared by some lawfully constituted medical board as incapacitated, so these explanations lack fair reasoning.

9. The Dean as an authority also had to act, decide the matter on the basis of fairness, according to the principle of justice and law. In this respect wisdom is derived from judgment of Honourable Supreme Court in case *Pir Imran Sajid and others Versus Managing Director/General Manager (Manager Finance) Telephone Industries of Pakistan and others (2015 SCMR 1257)*, relevant rule is reproduced as blow:

"It hardly needs to be emphasized that the whole edifice of governance of the society has its genesis in the Constitution and laws aimed at to establish an order, inter alia, ensuring the provisions of socio-economic justice, so that the people may have guarantee and sense of being treated in accordance with law that they are not being deprived of their due rights. Provision of Article 4 embodies the concept of equality before law and equal protection of law and save citizens from arbitrary/discriminatory law and actions by the Governmental authorities. Article 5(2) commands that every body is bound to obey the command of the constitution i. Every public functionary is supposed to function in good faith, honestly and within the precincts of its

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power so that persons concerned should be treated in accordance with law as guaranteed by Article 4 of the Constitution. It would include principles of natural justice, procedural fairness and procedural propriety 2. The action which is mala fide or colourable is not regarded as action in accordance with law. While discharging official functions, efforts should be made to ensure that no one is prevented from earning his livelihood because of unfair and discriminatory act on their part."

(under lining is ours to emphasize)

10. In view of above dicta laid down by Honourable Apex Court and the explanations forwarded for rejection, we are of the firm view that respondent No.3 failed to comprehend his legal status, so, failed to honour the collective wisdom of the committee, as a decision of a single person without following rules of fairness could be based on his personal bias, whims and surmises more elaborately wherever statutes or rules or regulations have authorized some official with some particular authority or power to accept or reject the collective decision of the committee, then in case of rejection the explanation forwarded shall be coached with fairness, unbiased reasoning, principles of justice and law which is missing in the explanations contained

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in impugned order dated 28.11.2016 about each petitioner. Therefore, such explanations for rejection are without reasonable, believable and plausible support, so are declared contrary to law, without proof, unfair thus has no any adverse effects upon the rights of petitioners particularly when there is no charge over the capacity and honesty of Search Committee rather as discussed above it has been admired. Hence, recommendations made by such committee are binding upon the authority as justice is not only delivered by law Courts but is also administered by the authority which though in no sense to be called Court, but to have act as judges of rights of others.

11. Thus what has been discussed above, we allow all the three petitions, direct the respondent No.3 to accept the recommendations of Search Committee and appoint the petitioners on their respective posts.

Announced:
12.04.2017

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OFFICE OF THE DEAN
LADY READING HOSPITAL-MTI PESHAWAR

NOTIFICATION

In compliance with the judgment of Honorable Peshawar High Court in WP No. 4690-P/2016 dated 12/04/2017, Dr. Mahfooz Hussain Vs Khyber Pakhtunkhwa through Secretary to Govt. Health Department Peshawar, the following doctors are hereby notified as Chairperson/Chairmen of their respective Departments of LRH, MTI mentioned against their names.

S#	Name	Designation	Notified as
1.	Prof. Sadaqat Jabeen	Gynecology and Obstetrics	Chairperson Gynecology and Obstetrics
2.	Dr. Musa Kalim	Associate Professor Peadiatric	Chairman Peadiatric
3.	Dr. Mahfooz Hussain	Associate Professor Ophthalmology	Chairman Ophthalmology

The acting Chairperson/Chairmen appointed during this period are hereby relieved from their responsibilities.

Sd/xxx.

Dean,

Lady Reading Hospital- MTI
Peshawar

No.719-27/LRH/Dean

Dated. 05/05/ 2017

Copy for information to:

1. The Chairman BoG LRH, MTI Peshawar
2. Medical Director LRH, MTI Peshawar
3. Hospital Director LRH, MTI Peshawar
4. Chairman Search Committees LRH, MTI Peshawar.
5. All heads of the department/ divisional heads LRH, MTI Peshawar.
6. Concerned Acting Chairperson/ Chairmen.
7. Director HR LRH, MTI Peshawar
8. Incharge IT LRH, MTI Peshawar
9. Doctor concerned

ATTESTED

Dean,

Lady Reading Hospital- MTI
Peshawar



LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION
PESHAWAR, PAKISTAN.

- 50 -

Medical Director ,
Medical Teaching Institution
Lady Reading Hospital
Peshawar, Pakistan.

Telephone: (091) 9211400
Facsimile: (091) 9211401
(091) 9210958
Email: medicaldirector@lrh.gov.pk

Annex "P"

NOTIFICATION

Subsequent to the notification issued by the Dean MTI-LRH bearing no. 79-27/ LRH/Dean, dated 5/5/2017 as Chairperson / Chairmen of the respective Departments mentioned against their names. The following doctors are hereby notified as member of the Clinical Executive Board (CEB) LRH-MTI notified vide office order no. 875-92/PA/LRH, dated 13/12/2016, by replacing their incumbents.

1. Prof. Dr. Sadaqat Jabeen, Chairperson Gynae & Obstetrics Department
2. Dr. Musa Kaleem, Chairman Pediatrics Department
3. Dr. Mahfooz Hussain, Chairman Ophthalmology Department

Sd/-xxxxxxxxx
Medical Director
Lady Reading Hospital,
Medical Teaching Institution
Peshawar.

Personal file
Jabeen
11/15/2017

No. 1652-64 /LRH/PA

Dated:

Copy for information:-

1. Dean LRH-MTI
2. Hospital Director LRH-MTI
3. Prof. Dr. Sadaqat Jabeen, Chairperson Gynae & Obstetrics LRH-MTI
4. Divisional Head Pediatrics Department LRH-MTI
5. Incharge Ophthalmology Department (Team A & B) LRH-MTI
6. Dr. Musa Kaleem, Chairman Pediatrics LRH-MTI
7. Dr. Mahfooz Hussain, Chairman Ophthalmology LRH-MTI
8. Prof. Dr. Kifayatullah, Incharge Pediatric Surgery LRH-MTI
9. Prof. Simi Fayyaz, Incharge Gynae C Unit LRH-MTI
10. Dr. Junaid Sehti, Assistant Professor Ophthalmology LRH-MTI
11. Secretary to BoG LRH-MTI
12. Personal Files
13. Notice board

ATTESTED

Medical Director
Lady Reading Hospital,
Medical Teaching Institution
Peshawar.

P L D 2013 Supreme Court 195

Present: Ifrikhar Muhammad Chaudhry, C.J., Jawwad S. Khawaja and Khilji Arif Hussain, JJ

Syed MAHMOOD AKHTAR NAQVI and others---Petitioners

Versus

FEDERATION OF PAKISTAN and others---Respondents

[Petition by Ms. Anita Turab for protection of Civil Servants: In re]

Constitution Petitions Nos.23 and 11, Criminal Original Petitions Nos.23, 24 and 27. H.R.C. No. 14427-P, C.M.As. Nos. 1575, 1611, 1792, 197-K and 231-K and Criminal Miscellaneous Application No.587 of 2012 in Criminal Original Petition No. 24 of 2012 in Constitution Petition No.11 of 2012.

(a) Civil Servants Act (LXXI of 1973)---

---Ss. 4, 5, 9 & 10---Civil Servants (Appointment, Promotion and Transfer) Rules, 1973---Constitution of Pakistan, Arts. 9, 14, 18 & 184(3)---Constitutional petition under Art. 184(3) of the Constitution seeking elaboration of constitutional and legal safeguards relating to the working of civil servants---Maintainability---Matter of tenure, appointment, posting, transfer and promotion of civil servants could not be dealt with in an arbitrary manner; it could only be sustained when it was in accordance with the law---Decision which deviated from the accepted or rule-based norm without proper justification, could be tested on the touchstone of a manifest public interest---Fundamental rights of civil servants, inter alia, under Arts.9, 14 & 18 of the Constitution were aspects arising in the present constitutional petition---Constitutional petition was maintainable.

Tariq Aziz-ud-Din's case 2010 SCMR 1301; Syed Yousaf Raza Gillani v. Assistant Registrar PLD 2012 SC 466 and Mahmood Akhtar Naqvi v. Federation of Pakistan, Constitution Petition No.5 of 2012 ref.

(b) Civil Servants Act (LXXI of 1973)---

---S.16---Constitution of Pakistan, Arts. 5 & 184(3)---Civil servant, duties of---Non-subservience to political executive and impartiality---Scope---Although civil servants did have a duty to follow the policy guidelines and directions of the political executive yet, because of Art.5 of the Constitution, their foremost duty was "obedience to the Constitution and the law", not unthinking obedience to all directives (right or wrong) issued from the political executive---Civil servants were public servants and were, therefore, meant to take decisions only in accordance with law in the public interest---Civil servants in their capacity as advisors in decision making or as administrators and enforcers of law, were not subservient to the political executive---Civil servants were under an obligation to remain compliant with the Constitution and law, hence they were not obliged to be servile or unthinkingly submissive to the political executive---Civil servants to give advice in the best public interest and were to administer the law impartially being in charge of the machinery of the State.

Quaid-e-Azam Mohammad Ali Jinnah Speeches as Governor General of Pakistan 1947-48, Sang-e-Meel Publications, Lahore: 2004 ref.

(c) Civil Servants Act (LXXI of 1973)---

---Ss. 3 & 5---Rules of Business, (1973), R. 5(10)---Appointment and conditions of service of civil servants---Transaction of business---Civil servant, opinion of---Scope---Implementation of policy or directives, might be required in some cases notwithstanding the considered views of a civil servant to the contrary, however in such an event, the civil servant should record his/her honest and considered opinion without fear---Decisions violating the law relating to appointment and terms and conditions of service of civil servants which were manifestly wrong and were likely to cause gross injustice or undue hardship should be considered important enough for the purpose of R. 5(10) of Rules of Business, (1973).

(d) Civil Servants Act (LXXI of 1973)---

---Preamble---Object of Civil Servants Act, 1973---Parliament had enacted Civil Servants Act, 1973 for providing meaningful legal guarantees to civil servants and doing away with arbitrariness---Object of Civil Servants Act, 1973 was to legally "regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of Pakistan" (Preamble)---Rule of law was the key idea reflected in the whole scheme of the Act.

(e) Civil Servants Act (LXXI of 1973)---

---Ss. 4, 5, 9 & 10---Civil Servants (Appointment, Promotion and Transfer) Rules, 1973---Constitution of Pakistan, Art. 184(3)---Constitutional petition under Art. 184(3) of the Constitution seeking elaboration of constitutional and legal safeguards relating to the working of civil servants---Tenure, appointment, promotion and posting/transfer of civil servants---Favoritism/discouragement of merit---Effect---Tenure, appointment, promotion and posting/transfer were of utmost importance in the civil service, and if same were made on merit in accordance with definite rules, instructions etc., they would rightly be considered and treated as part of the terms and conditions of service of a civil servant; however, where rules and instructions were deviated from and as a result merit was discouraged on account of favoritism, sifarish or considerations other than merit, it should be evident that the civil service would not remain independent or efficient.

(f) Civil Servants Act (LXXI of 1973)---

---Ss. 5 & 11---Civil Servants (Appointment, Promotion and Transfer) Rules, 1973---Civil Servants (Efficiency and Discipline Rules), 1973---Constitution of Pakistan, Art. 184(3)---Appointment and removal of civil servants---Principles---Whenever there were statutory provisions or rules or regulations which governed the matter of appointments of civil servants, the same must be followed, honestly and scrupulously---Even where there were no explicit rules governing the appointment process, and appointments were to be made in the exercise of discretionary powers, such discretion must be employed in a structured, transparent and reasonable manner and in the public interest---Appointing authorities could not be allowed to exercise discretion at their whims, or in an arbitrary manner; rather they were bound to act fairly, evenly and justly and their exercise of power was judicially reviewable---Removal and dismissal of civil servants from service was not left to anyone's whims and caprice and it was governed by rules and regulations---Anachronistic concept where government servants held office during the pleasure of the Authority had no place in a dispensation created and paid for by the people.

Tariq Aziz-ud-Din's case 2010 SCMR 1301; Corruption of Hajj Arrangement's case PLD 2011 SC 963 and Muhammad Yasin v. Federation of Pakistan PLD 2012 SC 132 ref.

(g) Civil Servants Act (LXXI of 1973)---

---S. 9---Constitution of Pakistan, Art. 184(3)---Promotion of civil servants---Discretion---Principles---Discretion in matters of promotion must be exercised fairly and in a transparent manner---Such discretion had to be understood within the four corners of the concept of rule of law upon which the system of governance was founded---Every Authority in the State was bound to obey the dictates of the law and had no personal or absolute discretion.

Tariq Aziz-ud-Din's case 2010 SCMR 1301 ref.

(h) Civil Servants Act (LXXI of 1973)---

---Ss. 4 & 10---Constitution of Pakistan, Art. 184(3)---Tenure, posting and transfer of civil servants---Principles---When the ordinary tenure for a posting had been specified in the law or rules made thereunder, such tenure must be respected and could not be varied, except for compelling reasons, which should be recorded in writing and were judicially reviewable---Transfers of civil servants by political figures which were capricious and were based on considerations not in the public interest were not legally sustainable.

Corruption of Hajj Arrangement's case PLD 2011 SC 963; Zahid Akhtar v. Government of Punjab PLD 1995 SC 530 and Farrukh Gulzar v. Secretary Local Government and Rural Development Department, Lahore and 2 others 1998 SCMR 2222 ref.

(i) Civil Servants Act (LXXI of 1973)---

---S.16---Constitution of Pakistan, Arts. 5 & 184(3)---Civil servant, duty of---Non-compliance with illegal orders of superiors---Scope---Duty of public officers was to independently discharge their functions and not be influenced by "dictatorial misuse of powers" at the hands of political figures---Civil servants were not bound to obey orders from superiors which were illegal or were not in accordance with accepted practices and rule-based norms; instead, in such situations, they must record their opinion and, if necessary, dissent---Compliance with illegal orders of superiors was not justified on the basis of having been issued from higher authority as it was the law and the Constitution which must be obeyed---Illegal orders (of superiors) could not be defended on the plea that they could expose the concerned government servant to the risk of disciplinary action.

Syed Nazar Abbas Jalri v. Secretary to the Government of the Punjab and another 2006 SCMR 606; Province of Punjab v. Azhar Abbas 2002 SCMR 1; Samiullah Khan Marwat v. Government of Pakistan 2003 SCMR 1140; Iqbal Hussain v. Province of Sindh 2008 SCMR 105; Human Rights Cases Nos.4668 of 2006, 111 of 2007 and 15283-G of 2010 PLD 2010 SC 759 and Zahid Akhtar v. Government of Punjab PLD 1995 SC 530 ref.

(j) Civil Servants Act (LXXI of 1973)---

---S.10---Constitution of Pakistan, Art. 184(3)---Posting of a civil servant as Officer on Special Duty (OSD)---Principles---Officer should not be posted as Officer on Special Duty (OSD) except for compelling reasons, which must be recorded in writing and were judicially reviewable---If at all an officer was to be posted as Officer on Special Duty (OSD), such posting should be for the minimum period possible and if there was a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

Corruption of Hajj Arrangement's case PLD 2011 SC 963; Mir Shah Nawaz Marri v. Government of Balochistan and others 2000 PLC (C.S.) 533; Syed Ajmal Hussain Bokhari v. Commissioner, Rawalpindi 1997 PLC (C.S.) 754; Sajjad Ahmad Javed Bhatti v. Federation of Pakistan 2009 SCMR 1448 and Lt. Col. (R.) Abdul Wajid Malik v. Government of the Punjab 2006 SCMR 1360 ref.

(k) Civil Servants Act (LXXI of 1973)---

---S.16---Constitution of Pakistan, Arts. 189, 190 & 204(2)(a)---Decision of---Supreme Court---Binding nature of---Scope---Decision given by the Supreme Court on a point of law would be binding on concerned departmental functionaries who would be obliged to apply such legal principle in other similar cases regardless of whether or not a civil servant had litigated the matter in his own case---In view of Art.189 and 190 of the Constitution, a civil servant would be entitled to make a departmental representation or initiate legal proceedings before a competent forum to enforce a legal principle enunciated by the Supreme Court---Failure of a State functionary to apply a legal principle which was clearly and unambiguously attracted to a case, might expose him to proceedings under Art.204(2)(a) of the Constitution.

Al-Jehad Trust v. Federation of Pakistan PLD 1997 SC 84; Hameed Akhtar Niazi v. The Secretary Establishment Division 1996 SCMR 1185 and Baaz Muhammad Kakar v. Federation of Pakistan PLD 2012 SC 870 ref.

(l) Civil Servants Act (LXXI of 1973)---

---Ss. 4, 5, 9 & 10---Constitution of Pakistan, Art. 184(3)---Tenure, appointments, promotions and transfers of civil servants---Discretion of Executive Authority---Interference by courts---Scope---Responsibility of deciding suitability of an appointment, posting or transfer fell primarily on the executive branch of the State which comprised of both the political executive and civil servants---Decision making in relation to tenure, appointments, promotions and transfers remained rule-based and was not susceptible to arbitrariness or absolute and unfettered discretion---Courts ordinarily would not interfere in the functioning of the executive as long as it adhered to the law and established norms and acts in furtherance of its fiduciary responsibility.

Petitioners in person.

Hafiz S.A. Rehman, Sr. Advocate Supreme Court: Amicus Curiae.

Abdul Fateh Malik, A.G., Adnan Karim, A.A.-G., Ali Sher Jakhriani, AIG and Maqsood Ahmed, DSP for Government of Sindh.

Syed Arshad Hussain Shah, A.A.-G. for Government of Khyber Pakhtunkhwa.

Azam Khattak, A.A.-G. for Government of Balochistan.

Jawad Hassan, A.A.-G. for Government of Punjab.

Date of hearing: 18th October, 2012.

JUDGMENT

JAWWAD S. KHAWAJA, J.--Many centuries before the term 'good governance' became a catch-phrase, we find a remarkably eloquent exposition of the principles of good governance in the Epistle of Hazrat Ali to Malik ibn Ashtar, the Governor of Egypt. The revered Khalifa, may Allah be pleased with him, is reported to have said: ".....give careful consideration to the selection of ... officers. Confirm them in their appointments after approval, apprenticeship and probation. Never select men for responsible posts either out of any regard for personal connections or under any influence, for, that might lead to injustice and corruption.... select for higher posts men of experience, men firm in faith ... Such men will not fall an easy prey to temptations and will discharge their duties with an eye on the abiding good of others". The law and the Constitution of Pakistan, with the aim of furthering the welfare of the people of Pakistan, articulate the same principles. The truth is that principles pertaining to the setting up of a just and constitutional government are eternal, not peculiar to our times. Our law, Constitution and courts only apply these universal and time-tested principles to the prevalent situation. In this public interest case seeking elaboration of constitutional and legal safeguards relating to the working of civil servants, we reaffirm these eternal principles which have also been stressed by us in cases decided earlier.

2. The background to this matter is that Suo Motu Case No.3 of 2012 was initiated on the basis of broadcasts on different TV channels on 25-2-2012. In these broadcasts, Syeda Wahida Shah, a candidate of the Pakistan Peoples Party for bye-election to PS-53 (Tando Muhammad

(Khan) was shown slapping a member of the polling staff. The Suo Motu case was concluded vide order dated 12-3-2012. Ms. Anita Turab, who is a civil servant in BS-19, presently working in the Ministry of Interior, filed an application in the aforesaid Suo Motu case. Since the case stood concluded, the application was ordered on 12-3-2012 to be registered as a petition under Article 184 (3) of the Constitution. It is this petition which is being decided through the present order.

3. The grievance of the petitioner set out in her petition can be summarized. Firstly, she seeks that the standing of the civil service be restored as service of the State and not the service of any transient government. To achieve this object, her submission is that unlawful political interference in the independent and legitimate functioning of civil servants be stopped. Secondly, the petitioner seeks corrective institutional measures to revert the civil service to rule-based management practices in accordance with the letter and spirit of applicable laws, rules and precedents of this Court.

4. On 12-3-2012, we had directed the Secretary Establishment Division, Government of Pakistan, the Chief Secretaries of the four Provinces and the Chief Commissioner, Islamabad Capital Territory to submit their comments. It was noted in the said order that civil servants who act according to law, at times, have to face hardship in the form of immediate transfer or posting as Officers on Special Duty (OSD) even before the completion of their tenure. It was also noticed that frequent transfers, postings and disciplinary proceedings are taken in violation of the law, rules and regulations.

5. The above referred functionaries comprised as a Committee, have submitted their report which includes tentative recommendations. Amongst other things, the Committee has recommended that "[p]ostings and transfers be made on merit", "tenures for various categories of posts be fixed" and that "[n]o civil servant should be posted as OSD for purposes of parking of officers who are unwanted, or, who are not susceptible to pressures." The Committee further recommends that "[a] civil servant should be placed under suspension only by the competent authority after initiation of disciplinary proceedings; and...Officers taken on deputation/borrowed from other tiers of the government should carry the requisite experience and seniority for specific jobs." According to the petitioner, many of the Committee's recommendations are already covered by existing law, rules and regulations, particularly in matters relating to tenure, appointment, transfer and posting of civil servants. There is no dispute or contention that such recommendations must indeed be implemented with immediate effect as a necessary concomitant to good governance. Some other recommendations made by the Committee require legislation or rule making which, necessarily will need to be undertaken by the legislature and/or the competent rule making authority and not by the Court.

6. The petitioner being a civil servant herself has requested revival of the independent, impartial and professional status of the civil service as an institution and to affirm its decision-making authority in furtherance of the rule of law. The petitioner's further grievance is that legal and constitutional safeguards meant to protect the civil service from excessive political interference are being systematically breached. With its safeguards thus withered, the service is growing inefficient and demoralized and with it, the machinery of the State, mandated to enforce good governance, rule of law and fundamental rights of the people of Pakistan, is failing.

7. The petition has been held maintainable because the situation portrayed does raise a question of public importance with reference to the enforcement of fundamental rights. In our constitutional scheme of governance, the importance of such a civil service, which is law-abiding and itself legally protected, cannot be over emphasized. "Good governance", this Court has recently observed, "is largely dependent upon [an] upright, honest and strong bureaucracy. [The] Civil service is the back bone of our administration." per Chaudhry Ijaz Ahmad, J. in Tariq Aziz-ud-Din's case (2010 SCMR 1301). Additionally, the fundamental rights of civil servants, inter alia, under Articles 9, 14 and 18 of the Constitution are also aspects arising in this Constitution Petition. The enforcement of fundamental rights is primarily the responsibility of the Executive branch of the State and civil servants constitute that essential component of the Executive who operate the executive machinery. A duty is thus cast both on the civil service and on the political executive to ensure the effectiveness (in all respects) of the civil service.

8. It is not in contention that civil servants are public servants and are, therefore, meant to take decisions only in accordance with law in the public interest. In their capacity as advisors in decision making or as administrators and enforcers of law, they are not subservient to the political executive. It is their obligation to remain compliant with the Constitution and law. Hence they are not obliged to be servile or unthinkingly submissive to the political executive. One of their prime duties is to give advice in the best public interest and to administer the law impartially being in charge of the machinery of the State. In this regard, the address made by Quaid-i-Azam Mohammad Ali Jinnah to the members of the civil service at Peshawar on 14th April, 1948 is most relevant. Quaid-i-Azam instructed them not to be "influenced by any political pressure, by any political party or individual politician." While urging them to loyally and faithfully serve whichever government came to power "in the ordinary constitutional course", he also reminded them of the need for "fearlessly, maintaining [their] high reputation, prestige, honour and the integrity of [their] service." Noting that pressurizing civil servants was, even in those early days, "a very common fault of politicians", he warned politicians that such behaviour would lead to "nothing but corruption, bribery and nepotism which is a horrible disease..." Ultimately, he urged both politicians and civil servants to "understand [their] own sphere of duty and responsibility and act with others harmoniously and in complete cooperation." Yet, being fully aware that real life was never ideal, he forewarned the civil servants that "you may even be put to trouble not because you are doing anything wrong but because you are doing right. Sacrifices have to be made, and I appeal to you, if need be, to come forward and make the sacrifice..." (Quaid-e-Azam Mohammad Ali Jinnah, Speeches as Governor General of Pakistan 1947-48, Sang-e-Meel Publications, Lahore 2004).

9. These should, indeed, be the guiding principles informing the relationship between the civil service and the political executive - the two limbs of the Executive branch of government, envisaged in the Constitution. Equally so, these principles should inform the judiciary's interpretation of the Articles of the Constitution and legal provisions which relate to the employment of persons in the service of Pakistan. We reaffirm that while civil servants do have a duty to follow the policy guidelines and directions of the political executive yet, because of Article 5 of the Constitution, just like other citizens, their foremost duty is "obedience to the Constitution and the law", not unthinking obedience to all directives (right or wrong) issuing from the political executive. In this context, Rule 5(10) of the Rules of Business, 1973 framed by the Federal Government in accord with Articles 90 and 99 of the Constitution, may be examined: "When the Secretary submits a case to the Minister, the latter may accept the proposal or views of the Secretary or may over-rule him. The Secretary will normally defer to the decision of the Minister and implement it. In case, however, the Secretary feels that the decision of the Minister is manifestly wrong and will cause gross injustice or undue hardship, he may state his reasons and re-submit the case to the Minister. If the Minister still adheres to his earlier decision and the matter is important enough, the Secretary shall request the Minister to refer the case to the Prime Minister and the Minister shall so refer the case for orders of the Prime Minister. If the case is not referred to the Prime Minister, the Secretary shall submit it directly to the Prime Minister with observations of the Minister-in-Charge." In other words, implementation of policy or directives, in some cases may be required notwithstanding the considered views of a civil servant to the contrary. In such event, however, the civil servant should record his/her honest and considered opinion without fear. Decisions violating the law relating to appointment and terms and conditions of service of civil servants which are manifestly wrong and are likely to cause gross injustice or undue hardship should be considered important enough for the purpose of Rule 5(10) *ibid*.

10. It is worth noting that the Constitutions of 1956 and 1962 contained chapters outlining certain safeguards for the civil service. In the 1973 Constitution, the framers omitted a similar chapter from the Constitution and shifted the onus to ordinary legislation. The Law Minister at the time, who was steering the Constitution Bill informed the Constituent Assembly that in the past, constitutional protection for civil servants had been granted "because those who served came from outside and they needed these protections in respect of service". However, since now "this country [was] being run by the leaders of the people" such protections were no more deemed necessary. The purpose of this change, therefore, was to "[break] away from the past colonial traditions" and to emphasize the point that civil servants were not entitled to "any superior or higher status" compared to other citizens. Another reason the Law Minister gave was that the "Constitution is the basic document providing the fundamentals and this matter was not so fundamental as to be provided in the Constitution." (Parliamentary Debates, 31st December, 1972 and 19th February, 1973). It was therefore decided that, as stated in Articles 240, 241 and 242 of the Constitution, the matter would be dealt with through statutes. Such statutes were subsequently passed and include the Civil Servants Act, 1973. It may be emphasized that whatever else the intent behind these changes may have been, it could not have been meant to subjugate civil servants to constantly changing political imperatives. The intent of the Constitution cannot, but be a fuller realization of the goal set out in the speech of the country's founding father quoted earlier: "fearlessly, maintaining [the] high reputation, prestige, honour and the integrity of [the] civil service."

ATTESTED

11. It was in this spirit, i.e. providing meaningful legal guarantees to civil servants and doing away with arbitrariness, that Parliament enacted statutes such as the Civil Servants Act, 1973. The very object of this statute is to legally "regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of Pakistan" (Preamble). The rule of law is the key idea reflected in the whole scheme of the statute. This impression is textually reinforced by the express stipulation that appointment of civil servants shall be made only "in the prescribed manner" (S. 5), that the terms and conditions shall be only such as are "provided in [the] Act and the Rules" [S. 3(1)] and not be "varied to his disadvantage" [S. 3(2)] and that promotions shall only be made on the basis of objective criteria such as "merit" [S. 9(2)(a)] and "seniority-cum-fitness". [S.9(2)(b)].

12. This Court, in a number of precedents has interpreted and emphasized these very principles, some of which need to be reiterated at this point. Before that, however, we may note the precept and rule of public trust which forms the basis of this area of the law. This court has repeatedly observed that "functionaries of the State are fiduciaries of the people and ultimately responsible to the people who are their pay masters." [Syed Yousaf Raza Gillani v. Assistant Registrar, (PLD 2012 SC 466) affirming Muhammad Yasin v. Federation of Pakistan]. Most recently, in the case relating to dual nationality of Parliamentarian, we have reiterated that "all State authority is in the nature of a 'sacred trust' and its bearers should therefore be seen as fiduciaries" (Mehmood Akhtar Naqvi v. Federation of Pakistan, Const. P. 5/2012). One of the implications of this concept, highlighted in the case-law considered below, is that the matter of tenure, appointment, posting, transfer and promotion of civil servants cannot be dealt with in an arbitrary manner; it can only be sustained when it is in accordance with the law. Moreover, the use of the words 'in the public interest' in such matters are not fatuous or pointless, but emphasise the fiduciary nature of orders relating to tenure, posting etc. Thus a proposed decision which deviates from the accepted or rule-based norm without proper justification, can be tested on the touchstone of a manifest public interest.

13. Tenure, appointment, promotion and posting/transfer are of utmost importance in the civil service. If these are made on merit in accordance with definite rules, instructions etc., the same will rightly be considered and treated as part of the terms and conditions of service of a civil servant. If, however, rules and instructions are deviated from and as a result merit is discouraged on account of favoritism, sifarish or considerations other than merit, it should be evident the civil service will not remain independent or efficient. It is necessary once again, to hark back to the considerations set out in the speech of Quaid-i-Azam and the eternal wisdom reflected in the Epistle of Hazrat Ali, may Allah be pleased with him, cited at the start of this opinion. It is also relevant to note that the principles of good governance are already envisioned in the Constitution and are also encoded in statutes such as the Civil Servants Act, 1973, the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 and other rules made under the aforesaid Act and in regulations and instructions given in the Civil Establishment Code (Estacode). It is, however, apparent from precedent and civil service matters coming up before Service Tribunals and this Court that problems/difficulties arise for civil servants when the rules of good governance so encoded are breached and the reason for such breach appears to be abuse of discretion. We are aware that matters relating to tenure etc. cannot be put in a strait-jacket and that there is to be an element of flexibility. A balance between the competing pulls of discretion and rule based decision making is a fine one where perception of fairness and even handed treatment is of utmost importance. It is for this reason that transparency in decisions relating to tenure etc. are required to be entrenched and cemented to assure the quality, effectiveness and morale of the civil service. Since executive decisions generally are subject to judicial review, the assurance of transparency is itself likely to eliminate decision making based on considerations other than merit. We have referred to accepted principles and rules above and may now advert to certain relevant rulings earlier rendered by this Court.

A - On the Issue of Appointments and Removals

14. In a number of judgments, the courts have clarified that whenever there are statutory provisions or rules or regulations which govern the matter of appointments, the same must be followed, honestly and scrupulously. In the Corruption of Hajj Arrangements' case (PLD 2011 SC 963) and Tariq Aziz-ud-Din's case *ibid*, it has been clarified that even where there are no explicit rules governing the appointment process, and appointments are to be made in the exercise of discretionary powers, such discretion must be employed in a structured and reasonable manner and in the public interest. Appointing authorities cannot be allowed to exercise discretion at their whims, or in an arbitrary manner; rather they are bound to act fairly, evenly and justly and their exercise of power is judicially reviewable. And in Muhammad Yasin v. Federation of Pakistan (PLD 2012 SC 132), we have clarified that, when called upon to do so, the Courts are "duty bound to examine the integrity of the selection process", although they "will not engage in any exhaustive or full-fledged assessment of the merits of the appointee nor [...] seek to substitute [their] own opinion for that of the Executive." It may also be noted that just like the appointment of civil servants, their removal and dismissal from service has not been left to anyone's whims and caprice. It is governed by rules and regulations, amongst them the Civil Servants (Efficiency and Discipline Rules), 1973. Indeed, the anachronistic concept where government servants held office during the pleasure of the Crown has no place in a dispensation created and paid for by the people.

B - On the Matter of Promotions

15. In Tariq Aziz-ud-Din's case, we have dealt with some important facets of the civil service including the exercise of discretion in matters of promotion. Such discretion must be exercised fairly and in a transparent manner. Discretion has to be understood within the four corners of the concept of rule of law upon which our system of governance is founded. Every authority in the State is bound to obey the dictates of the law and has no personal or absolute discretion. It was therefore held that "[t]he right [to be considered for promotion] contemplated under section 9 [of the Civil Servants Act] is neither illusory nor a perfunctory ritual and withholding of promotion of an officer is a major penalty in accordance with the Civil Servants (Efficiency and Disciplinary) Rules, 1973, therefore, consideration of an officer for promotion is to be based not only on the relevant law and the rules but also to be based on some tangible material relating to merit and eligibility which can be lawfully taken note of."

C - On the Matter of Transfers and Tenure

16. In the Hajj Corruption Case, the Court reiterated its earlier ruling in Zahid Akhtar v. Government of Punjab (PLD 1995 SC 530), where it had been held that "the normal period of posting of a Government servant at a station, according to Rule 21 of the Rules of Business is three years, which has to be followed in the ordinary circumstances, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary in the opinion of the competent authority." Furthermore, with regard to transfers of civil servants, this Court has stated that transfers by political figures which are capricious and are based on considerations not in the public interest are not legally sustainable. Farrukh Gulzar v. Secretary Local Government and Rural Development Department, Lahore and 2 others (1998 SCMR 2222). These are principles of law enunciated by this Court and are to be followed in terms of Article 189 of the Constitution. We, however, repeatedly come across violations of such principles. This unnecessarily leads to litigation which, in turn, clogs Courts and Service Tribunals.

D - On the matter of obeying illegal orders from superiors

17. In Syed Nazir Abbas Jafri v. Secretary to the Government of the Panjab and another (2006 SCMR 606), this Court held that the duty of public officers is to independently discharge their functions and not be influenced by "dictatorial misuse of powers" at the hands of political figures. The Court has also emphasized that the appointment and removal of civil servants is not to be politically motivated. Province of Punjab v. Azhar Abbas (2002 SCMR 1). These decisions highlight the concept of a civil service which enjoys certain legal protections and is thus capable of performing its envisioned role as a law-enforcing institution.

18. The compliance of illegal orders of superiors is not justified on the basis of having been issued from higher authority as it is the law and Constitution which must be obeyed. Here it would be relevant to cite the judgment of this Court in Samiullah Khan Marwat v. Government of Pakistan (2003 SCMR 1140) where it was stated: "...the exercise of powers by the public functionaries in derogation to the direction of law would amount to disobey[ing] the command of law and the Constitution..." Furthermore, in the case of Iqbal Hussain v. Province of Sindh (2008 SCMR 105) the Court held that "the compliance of any illegal and arbitrary order is neither binding on the subordinate forums nor valid in the eyes of law." In case the subordinates are directed to implement an illegal order "they should put on record their dissenting note" Human Rights Cases Nos. 4668 of 2006, 1111 of 2007 and 15283-G of 2010 (PLD 2010 SC 759). Similarly, illegal orders cannot be defended on the plea that these could expose the concerned government servant to the risk of disciplinary action. Zahid Akhtar v. Government of Punjab (PLD 1995 SC 530).

E - On the matter of posting civil servant as Officers on Special Duty (OSD)

19. Ordinarily, no government employee should be posted as OSD except under compelling circumstances. In the Haji Corruption case, (PLD 2011 SC 963) the Court held: "It is well settled that placing an officer as OSD is tantamount to penalizing him because the expression 'OSD' is not known to either the Civil Servants Act, 1973 or the Civil Servants (Appointment Promotion and Transfer) Rules, 1973." Reference in this regard may also be made to the cases of Mir Shah Nawaz Marri v. Government of Balochistan and others (2000 PLC (C.S.) 533), Syed Ajmal Hussain Bokhari v. Commissioner, Rawalpindi (1997 PLC (C.S.) 754), Sajjad Ahmad Javed Bhatti v. Federation of Pakistan (2009 SCMR 1448) and Lt. Col. (R.) Abdul Wajid Malik v. Government of the Punjab (2006 SCMR 1360).

20. The above referred precedents have shaped the contours of the law relating to civil servants and the civil service. In the established tradition of a common law jurisdiction, Article 189 of the Constitution stipulates that, "[a]ny decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan." As this Court has already held "... the interpretation of the various Articles by this Court becomes part of the Constitution". Al-Jehad Trust v. Federation of Pakistan (PLD 1997 SC 84). Specific to the law relating to civil servants and matters in respect of their service, we have enunciated a principle of law in the case titled Hameed Akhtar Niazi v. The Secretary Establishment Division (1996 SCMR 1185) holding that a decision given by this Court on a point of law will be binding on concerned departmental functionaries who will be obliged to apply such legal principle in other similar cases regardless of whether or not a civil servant has litigated the matter in his own case. We are conscious that in some instances the application of a legal principle enunciated in a precedent may be possible without difficulty or ambiguity, while in other cases there may be some uncertainty in determining if a legal principle is in fact applicable as precedent. It is, however, clear that in view of Articles 189 and 190 of the Constitution, a civil servant will be entitled to make a departmental representation or initiate legal proceedings before a competent forum to enforce a legal principle enunciated by this Court.

21. In appropriate cases the failure of a State functionary to apply a legal principle which is clearly and unambiguously attracted to a case, may expose him to proceedings also under Article 204(2)(a) of the Constitution. This Article, it may be recalled, grants this Court the power to punish for contempt any person who "disobeys any order of the Court". In a recent judgment, the Court has clarified the significance of the law of contempt as an enforcement mechanism. It was held "...the Court, in and of itself, has to pass orders and to require the implementation of its orders; responsibility for implementation has been made obligatory on other organs of the State, primarily the Executive. However, in the unfortunate situation that a functionary of the Executive refuses to discharge his constitutional duty, the Court is empowered to punish him for contempt...Simply put, a government of laws cannot be created or continued with toothless courts and defiant or blithely non-compliant public functionaries". Baaz Muhammad Kakar v. Federation of Pakistan (PLD 2012 SC 870). If there still remains any doubt, let us clarify that those executive functionaries who continue to ignore the Constitution and the law, do so at their own peril.

22. The principles of law enunciated hereinabove can be summarized as under:-

(i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder; where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.

(ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

(iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.

(iv) OSD: Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

23. We are fully conscious that the aforesaid matters relate to decision making and administration of the machinery of the State. As such the responsibility of deciding as to suitability of an appointment, posting or transfer falls primarily on the executive branch of the State which comprises of both the political executive and civil servants. Courts ordinarily will not interfere in the functioning of the executive as long as it adheres to the law and established norms and acts in furtherance of its fiduciary responsibility. However, while hearing this petition we have recognized the need for ensuring that decision making in relation to tenure, appointments, promotions and transfers remains rule based and is not susceptible to arbitrariness or absolute and unfettered discretion.

24. Copies of this judgment shall be sent to the Federal Secretary Establishment, the Chief Secretaries of the Provinces, the Commissioner Islamabad Capital Territory and to the Secretaries of all Federal and Provincial government departments.

MWA/A-31/S

Order accordingly.

ATTESTED

- 54
Anwar R²

GOVERNMENT OF PAKISTAN
Cabinet Secretariat
ESTABLISHMENT DIVISION

No.F.1/11/2012-Lit-IV

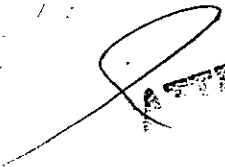
Islamabad – the 3rd January, 2013.

OFFICE MEMORANDUM

Subject: ORDER PASSED BY SUPREME COURT OF PAKISTAN IN CONST. PETITION NO.23/2012 FILED BY MS. ANITA TURAB AND OTHERS VS. FEDERATION OF PAKISTAN DATED 18.10.2012

The undersigned is directed to refer to the subject cited above and to say that the Supreme Court of Pakistan has enunciated certain guiding principles for depoliticizing the public service vide its Judgment dated 12-11-2012 passed in the subject case. The operative parts of the Judgment given vide para-22 are reproduced as under:-

- (i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder; where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- (iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- (iv) OSD: Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.


ATTESTED

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GOVERNMENT OF PAKISTAN
Cabinet Secretariat
ESTABLISHMENT DIVISION

- 55

No.F.1/11/2012-Lit-IV

Islamabad, the 3rd January, 2013.

OFFICE MEMORANDUM

SUBJECT: ORDER PASSED BY SUPREME COURT OF PAKISTAN IN CONST. PETITION NO.23/2012 FILED BY MS ANITA TURAB AND OTHERS VS. FEDERATION OF PAKISTAN dated 18.10.2012

AN 2013
(A)

The undersigned is directed to refer to the subject cited above and to say that the Supreme Court of Pakistan has enunciated certain guiding principles for depoliticizing the public service vide its judgment dated 12-11-2012 passed in the subject case. The operative parts of the judgment given vide para-22 are reproduced as under:-

JAN 2013
(M)
(A)

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23/1/13
1/1/13
2-1/1R-II
3/1R-IV

- i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule-based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- iv) OSD: Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

58 JAN 2013

[Handwritten signatures and stamps]

GOVERNMENT OF PAKISTAN
Cabinet Secretariat
ESTABLISHMENT DIVISION

SS

No.F.1/11/2012-Lit-IV

Islamabad - the 3rd January, 2013.

OFFICE MEMORANDUM

SUBJECT: ORDER PASSED BY SUPREME COURT OF PAKISTAN IN CONST. PETITION NO.23/2012 FILED BY MS ANITA TURAB AND OTHERS VS. FEDERATION OF PAKISTAN dated 18.10.2012.

AN 2013

(A)

The undersigned is directed to refer to the subject cited above and to say that the Supreme Court of Pakistan has enunciated certain guiding principles for depoliticizing the public service vide its judgment dated 12-11-2012 passed in the subject case. The operative parts of the judgment given vide para-22 are reproduced as under:-

- i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
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JAN 2013

(M)

C(A)

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23/1/13
1/1/13
2-1/11-11/5 (11-11)
2-1/11-11/11-11
2-11-11-11

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03 JAN 2013

REGISTERED

REGISTERED

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2. The Supreme Court has further recognized the need for ensuring that decision making in relation to tenure, appointment, removal, promotion and transfer remains ruled based and is not susceptible to arbitrariness or absolute and unfettered discretion.

3. In view of foregoing, the following guidelines have been circulated vide Establishment Division's O.M.No.4/10/2012-E-2 dated 26th December, 2012 (copy enclosed) with the approval of competent authority for strict compliance of the Supreme Court orders, dated 12.11.2012 while passing any such orders relating to appointment, tenure and transfer of the officers in BS-17 to BS-22:-

- a) The normal tenure specified must be respected and may not be varied except for compelling reasons which should be recorded in writing and would be defensible if subjected to judicial scrutiny.
- b) The officer appointed on a post be allowed to earn at least one Annual Performance Evaluation Report.
- c) The officer should not be posted as OSD except for compelling reasons, usually for training, temporary inefficiency of extreme hardship and transit period for minimum possible time with the reasons to be recorded in writing.
- d) There is no space for unilateral surrender of the officers by Ministries/Divisions/Provincial Governments and they are requested to refrain from this practice. However, even if they intend to change the officer, matter may be taken up with the Establishment Division, in case of APUG and federal employees and with respective Provincial Departments dealing with service matters of the officer, for appropriate action.

4. Attention of all the Ministries/Divisions/Departments/Organizations is also invited to the existing provisions contained in the Constitution of Pakistan, 1973, Rules of Business, 1973, Pakistan Penal Code, and Conduct Rules, 1964. The relevant extracts are as under:-

The Constitution of Islamic Republic of Pakistan 1973 In terms of article 240 of the 1973 Constitution the appointment to and the conditions of service of Pakistan are determined inter-alia through the Act of Parliament.

"4. Right of individuals to be dealt with in accordance with law, etc.

- (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.
- (2) In particular:-
 - (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;
 - (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and
 - (c) no person shall be compelled to do that which the law does not require him to do:

"9. Security of person. No person shall be deprived of life or liberty save in accordance with law"

ATTENDED

57

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 - (c) no person shall be compelled to do that which the law does not require him to do.


9. Security of person. No person shall be deprived of life or liberty save in accordance with law.

ATTESTED

Attended to be True Copy

ATTESTED

Annex 5th 58

	<p style="text-align: center;">GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING) NO. SOR.VI (E&AD)1 -4/2005/Vol-II Dated Peshawar, 27th February, 2013</p>
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PESHAWAR

To: *[Handwritten signature]*

1. The Additional Chief Secretary (P&D), Khyber Pakhtunkhwa.
2. The Additional Chief Secretary (FATA), Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.

Subject: CONSTITUTION PETITION NO.23 OF 2012 OUT OF SUO MOTO CASE NO. 3/2012 (PETITION BY MS. ANITA TURAB FOR PROTECTION OF CIVIL SERVANTS REGISTERED UNDER ARTICLE 184 (3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.)

Sir,

I am directed to refer to the subject noted above and to state that the Supreme Court of Pakistan vide the subject cited judgment has enunciated the following principles of Law with regard to protection and conduct of civil servants.

- (i) **Appointments, Removals and Promotions:** Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) **Tenure, Posting and Transfer:** When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

[Handwritten notes: 4/3, 4/3, 4/3]

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ATTESTED

ATTESTED
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(iii) Illegal Orders: Civil Servants owe their first and foremost allegiance to the law and the constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.

(iv) OSD: Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

2. I am, therefore, directed to request you to note the above principles of law for strict compliance.

Yours faithfully,

NAJAM
(NAJ-MUS-SAHAR)
SECTION OFFICER (REG-VI)

Encl: as above.

A copy is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Registrar, Peshawar High Court, Peshwar.
6. The Secretary Khyber Pakhtunkhwa, Public Service Commission.
7. All Addl Secretaries Establishment & Administration Department.
8. All Deputy Secretaries in Establishment & Administration Department.

NAJAM
SECTION OFFICER (REG-VI)

~~ATTESTED~~

ATTESTED

WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Dr Sadeghat Jabeen

Appellant(s)/Petitioner(s)

VERSUS

The Govt of KPK and
Others

Respondent(s)

I/We Appellant do hereby appoint
Mr. Khaled Rehman, Advocate, Supreme Court & **Mr. Muhammad
Amin Ayub**, Advocate High Court in the above mentioned case, to do all
or any of the following acts, deeds and things.

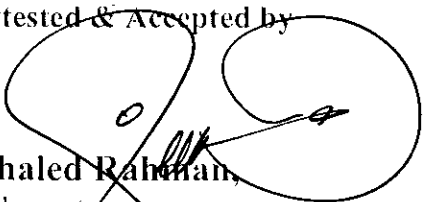
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

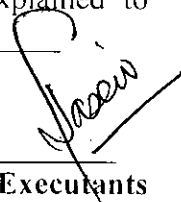
AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by


Khaled Rahman,
Advocate,
Supreme Court of Pakistan


Signature of Executants

&


Muhammad Amin Ayub
Advocate, High Court

4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458



IMMEDIATE/COURT
MATTER

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. SOH-I/HD/5-40/2019

Dated Pesh: the 06th December, 2019

To

Section Officer (Litigation-II),
Health Department, Peshawar.

Subject:-

**SERVICE APPEAL NO-1470/2019-PROFESSOR DR. SADAQAT JABEEN
VERSUS GOVT. OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT.**

I am directed to refer to your letter No. SOH(Lit-II)NIL/2019 dated 27-11-2019 on the subject cited above and in order to clarify the service status of Prof. Dr. Sadaqat Jabeen, a copy of the relevant Section (i.e.) 17-3(B) of the Khyber Pakhtunkhwa Medical Teaching Institution Reforms (amendment) Act, 2018 alongwith a copy of this Department Notification NO. SOH-I/HD/5-40/2019 dated 14-06-2019 is enclosed herewith for favour of further necessary action, please.

Encls: As above

(HAMID IQBAL)
SECTION OFFICER (ESTAB-I)
HEALTH DEPARTMENT

Endst: of even No. & date

Cc to the:

❖ PS to Secretary Health Department, Khyber Pakhtunkhwa.

SECTION OFFICER (ESTAB-I)
HEALTH DEPARTMENT

EXTRAORDINARY
GOVERNMENT



Amendment
REGISTERED NO. RIII

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 10th JANUARY, 2019.

PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 10th January, 2019.

No. PA/Khyber Pakhtunkhwa/Bills-6/2019/1722.— The Khyber Pakhtunkhwa Medical Teaching Institutions Reforms (Amendment) Bill, 2018 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 21st December, 2018 and assented to by the Governor of Khyber Pakhtunkhwa on 3rd January, 2019 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA MEDICAL TEACHING INSTITUTIONS REFORMS
(AMENDMENT) ACT, 2018

(KHYBER PAKHTUNKHWA ACT NO. I OF 2019)

(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 10th January, 2019).

AN
ACT

furtherto amend the Khyber Pakhtunkhwa
Medical Teaching Institutions Reforms Act, 2015.

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015 (Khyber Pakhtunkhwa Act No. IV of 2015), for the purposes hereinafter appearing;

It is hereby enacted as follows:

“(1) The Board shall appoint a full time, non-practicing Nursing Director for a the hospital for a period of five years, and shall be eligible for re-appointment, on such terms and conditions as the Board may determine; provided that no Board member shall be appointed as such.”;

- (ii) in sub-sections (2), (3) and (8), after the word “prescribed”, the words “by the Board” shall be added; and
- (iii) sub-section (4) shall be deleted.

16. Amendment of section 15 of the Khyber Pakhtunkhwa Act No. IV of 2015.—In the said Act, in section 15, after the words “of three years” the words and comma “and shall be eligible for re-appointment,” shall be inserted.

17. Amendment of section 16 of the Khyber Pakhtunkhwa Act No. IV of 2015.—In the said Act, in section 16,

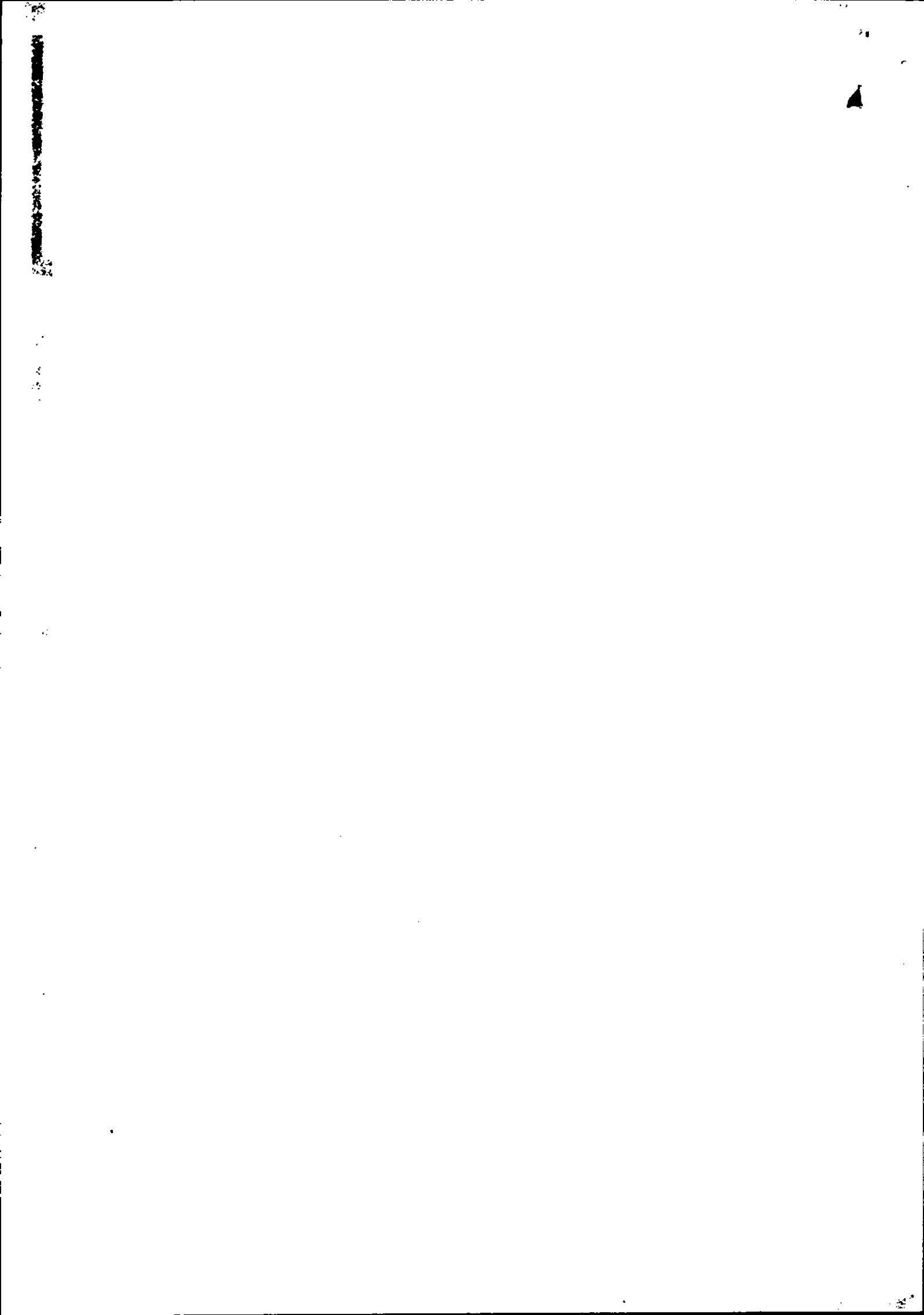
- (i) for sub-section (2), the following shall be substituted, namely:

“(2) Before the commencement of this Act, all administrative and teaching staff recruited by the Management Council in the prescribed manner under the repealed Khyber Pakhtunkhwa Medical and Health Institution and Regulation of Health Care Services Ordinance, 2002, regardless of status of terms and conditions of service, shall be considered employees of the concerned Medical Teaching Institution on such terms and conditions as may be prescribed by regulations:

Provided that such terms and conditions shall not be less favorable in financial terms than the terms and conditions admissible to them immediately before the commencement of this Act.”;

- (ii) for sub-section (3), the following shall be substituted, namely:

“(3) Before the commencement of the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms (Amendment) Act, 2018, all the civil servants serving in an existing Medical Teaching Institution, who opted for the employment of the Medical Teaching Institution, shall be subject to terms and conditions of employment as prescribed by regulations including but not limited to their service structure, promotion and disciplinary matters. Such opting employees shall be entitled to post-retirement benefits and emoluments as per existing government laws and rules. The Medical Teaching Institution shall deposit pension contribution on their behalf.”;



- (iii) after sub-section (3), as so substituted, the following new sub-sections shall be inserted, namely:

“(3A) Civil servants, who do not opt for absorption in the Medical Teaching Institution, so notified, shall be dealt with in such a manner as provided in section 11A of the Khyber Pakhtunkhwa Civil Servants Act, 1973, for their future posting, which includes deputation to the Medical Teaching Institution subject to a request being made by the Board.”

Provided that a civil servant working in a Medical Teaching Institution, shall at all times, be deemed to be on deputation. All deductions made from the pay of such civil servants shall be deposited by the borrowing authority.”

“(3B) A civil servant at the request of the Board may be sent on deputation to a Medical Teaching Institution by the Government. For civil servants on deputation to the Medical Teaching Institution, pension contribution shall be made by the Medical Teaching Institution. The deputation of a civil servant to a Medical Teaching Institution may be terminated by the Board at any time without assigning any reason thereof and such civil servants services shall revert to the Government immediately upon such termination being notified by the Board.”

- (iv) for sub-section (5), the following shall be substituted, namely:

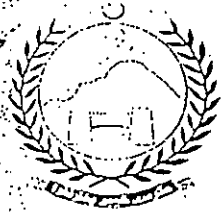
“(5) A civil servant, who opt to serve the Medical Teaching Institution, shall cease to be civil servant from the date of his absorption in the service of the Medical Teaching Institution concerned and their seniority, pension and other matters vis-à-vis employment in the Medical Teaching Institution, shall be determined in the manner, as may be prescribed.”; and

- (v) after sub-section (6), the following new sub-sections shall be added, namely:

“(7) All employees of a Medical Teaching Institution, whether having opted or directly appointed prior to the commencement of the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms (Amendment) Act, 2018, or pursuant to the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms (Amendment) Act, 2018, shall be at all times governed exclusively by the terms and conditions of service, as may be prescribed by regulations.

3-1)

TAB-D
ENT



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Pesh: the 14th June 2019

NOTIFICATION

No. SOH-I/HD/5-40/2019. The deputation of the following Professors (Civil Servants), working in MTI LRH Peshawar is hereby terminated henceforth as a consequence of the decision of the BoG MTI LRH as per provision contained in Section 17 (3b) of Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015 conveyed vide chairman BoG MTI letter No.41/BOG MTI dated 18/5/2019:-


1. ✓ Dr. Sadaqat Jabeen
Professor of Gynaecology, (BS-21); MTI, LRH
2. Dr. Riaz-Anwar,
Professor of Cardiovascular (BS-21); MTI, LRH

SECRETARY HEALTH

Endst No and date even

C.C

1. Accountant General, Khyber Pakhtunkhwa.
2. Chairman, BoG, MTI, LRH Peshawar w/r to his letter No.41/BoG/LRH-MTI dated 18th May 2019
3. Dean, MTI, LRH Peshawar.
4. Hospital/Medical Director, MTI, LRH Peshawar.
5. PSO to Chief Minister, Khyber Pakhtunkhwa.
6. PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. PSO to Minister Health, Khyber Pakhtunkhwa.
8. ✓ Doctors concerned, with the direction to report to Health Department for further posting/transfer.
9. PS to Secretary Health Department.


Section Officer-I

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1470/2019 of 2019

Professor Dr. Sadaqat Jabeen

Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa & Others

Respondents

PARAWISE COMMENTS ON BEHALF RESPONDENT NO. 1 to 3

PRELIMINARY OBJECTIONS:

1. That the appellant has neither cause of action nor locus standi to file the instant appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing law & rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That appellant has filed the instant appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to the Tribunal with clean hands.
7. That the appeal is time barred.
8. That the Honorable Tribunal has no jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder and non-joinder of the necessary parties.

ON FACTS:

1. Pertains to record, hence not comments.
2. Pertains to record.
3. That after the KPK Medical Teaching Institute Reforms (Amendments) Act, 2018 dated: 10 January, 2019 under section (17) 16 (3-A) & (3-B) (**Annex-I**) she was repatriated and now has been posted at GKMC, Swabi on 01-01-2020. (**Annex-II**).
4. No comments.

ON GROUNDS:

- A. That the appellant have been treated in accordance with law, rules and policy and Notification was issued by the Competent Authority.
- B. Incorrect. The Notification has been issued by the Competent Authority in public interest in accordance with the posting transfer policy of Provincial Govt.
- C. Incorrect. The appellant is a civil servant and under section 10 of the civil servant Act, 1973, she is liable to serve anywhere within or outside the province.

- D. Incorrect and misleading. The appellant deputation was terminated vide the said notification and now she has been posted at GKMC, Swabi as per rules 4 of APT Rules 1989.
- E. That MTI LRH is an autonomous institution and the rest is as explained in para 3 above.
- F. As explained in Para-3 of the facts.
- G. Related to MTI LRH being autonomous and they will be in a better position to respond.
- H. Incorrect, No TMOs will suffer due to her transfer.
- I. That the said Notification is issued according to the Act & Law.
- J. As explained in the preceding Paras.
- K. That the appellant has never been made OSD rather repatriated to the Department for further posting.
- L. That other grounds would be defended during the course of arguments.

PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant appeal may very graciously be dismissed with cost.



Secretary Health Khyber Pakhtunkhwa
Respondent No. 01&02.



Director General Health Services
Respondent No. 03



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated Pesh: the 01st January, 2020

NOTIFICATION:

No. SOH-I/HD/1-333/2019: The Competent Authority is pleased to transfer/adjust Dr. Sadaqat Jabeen (*waiting for posting in Health Department*) at Gajju Khan Medical College, Swabi alongwith the post of Professor of Gynaecology (BS-20) from MTI LRH Peshawar.

2- Consequent upon above, the post of Professor of Gynecology (BS-20) would stand abolished in the above College either on retirement or vacation by the incumbent doctor whichever is earlier.

**SD/
SECRETARY HEALTH DEPARTMENT**

Endst: No & date even

Cc:

1. Secretary to the Govt. of Khyber Pakhtunkhwa Finance Department alongwith a copy of approved Summary for favour of further necessary action.
2. Accountant General, Khyber Pakhtunkhwa.
3. Principal Gajju Khan Medical College, Swabi.
4. Hospital/Medical Director MTI LRH, Peshawar.
- ✓ 5. PSO to Minister for Health, Khyber Pakhtunkhwa.
6. PS to Secretary Health Department, Peshawar.
7. Doctor concerned.

SECTION OFFICER (ESTAB-I)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1470/2019 of 2019

Professor Dr. Sadaqat Jabeen

Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa & Others

Respondents

PARAWISE COMMENTS ON BEHALF RESPONDENT NO. 1 to 2 TO THE APPLICATION FOR SUSPENDING THE OPERATION OF THE IMPUGNED NOTIFICATION DATED: 14-06-2019 TILL THE FINAL DISPOSAL OF THE INSTANT APPEAL

1. No comments.
2. That reply to the main appeal may kindly be taken as integral part of this replication which doesn't not make out a prima facie case in favor of appellant.
3. Incorrect. That balance of convenience lies in favor of respondents & if the notification is responded, the respondent will suffer irreparable loss.

It is therefore requested that the application for suspension of notification dated: 14-06-2019 may kindly be dismissed.



Secretary Health Khyber Pakhtunkhwa
Respondent No. 01&02.