

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-4434 of 2020.

Date: Order with signature(s) of the Judge(s)

Priority

1. For Hearing of Misc. No.23600/2021.
2. For Orders on Misc. No.21418/2021.
3. For Orders on Office Objection.
4. For hearing of Main Case.

14th October, 2021.

None present for the petitioner.

Mr. Ali Safdar Depar, AAG

Mr. Kazim Jatoi, Secretary Health

Mr. Sikandar Ali Memon, Focal Person, Health Department,
Government of Sindh.

Mr. Sikandar Hasan, Deputy Secretary [Legal] Finance.

Pursuant to order dated 07.10.2021 Secretary Health present contends that on last date he has submitted summary in office which contends that:

"It is respectfully submitted with reference to hearing before the honourable court in the subject petition on 07.10.2021 that in compliance to the honourable High Court of Sindh's order dated 01.09.2021, Health Department has prepared and moved a summary to the honourable Chief Minister Sindh for seeking principal approval for the creation of Management cadre in Health Department for doctors. The proposed management cadre shall comprise officers of Grade-18 and above possessing M.P.H, M.S.P.H and other hospital management and health related degrees in addition to MBBS.

2. After formal approval of Honourable Chief Minister Sindh, the matter shall be placed before the cabinet for its approval.

3. Further, after approval of the Sindh Cabinet, the recruitment rules shall be prepared and placed before the competent forum i.e. Recruitment Rules Committee No.01, Services General Administration & Coordination Department, Govt. of Sindh for the approval.

4. Subsequently, Doctors possessing the required qualification for management cadre shall be appointed by transfer in the health management cadre from the existing lot of officers and will be posted against the Management Posts under a policy devised by the department and the management cadre officers can be directly recruited through Sindh Service Commission (SPSC) in BPS-18 when it is functional (now-a-days it is nonfunctional under the Honourable Court Orders).

5. For such process, Health Department needs at least one year or until SPSC becomes functional. Therefore, prayer submitted in the review petition before the honourable court may kindly be acceded to and accordingly honourable court may review orders dated 01.09.2021 and 21.09.2021 to the extent of Para-3 and health department's notification NO. PS/ASA/Policy-Matters/2016 dated 21.11.2016 may kindly be allowed.

6. As regard, re-designation / creation of posts of specialist cadre doctors at district level hospitals to improve service delivery, it is submitted that in this connection a summary has already been moved in January 2021 which has been returned by the Finance Department with certain observations.

7. Health Department has established a Monitoring and Evaluation Wing in order to strengthen and execute monitoring and supervision in the province and with the aim to ensure provision of Quality Health Services at the health facilities, outreach service and all other service delivery points; and to ensure evidence based decision making and policy formulation. Necessary approval was sought from the Honourable Chief Minister Sindh and the posts have been created, however, to functionalize the M&E Wing. Health Department has moved a summary for Chief Minister Sindh for the sanction of Operational Budget.

8. It is worth mentioning that the Health Department has established Management Boards of the teaching hospitals in Sindh under Sindh Teaching Hospitals (Establishment of Management Board) Act (2020). Under the said act, the teaching hospitals of Health Department have become independent both administratively and financially. In order to further strengthen the management boards and allow them to establish their own set up as per the act, Health Department has decided to shift various posts presently in the teaching hospitals to the Planning and Development Wing of Health Department. The said posts are basically part of Planning and Development Wing and the services of these officers posted against these posts can be better utilized in Health Department than in the teaching hospitals. The terms and conditions of the officers will remain the same however to utilize their services to the maximum level, they will be posted in Planning and Development Wing of Health Department. The concurrence for shifting of these posts is under

process in Services, General Administration and Coordination Department.

9. Health Department held a meeting with Chairperson of Teaching Hospitals Management Boards. In the meeting, it was decided to attach select DHQs and THQs with the nearest Teaching Hospitals so that specialized health care services could be ensured at DHQs and THQ hospitals level and by doing so, monitoring and effective service delivery of low performing DHQs and THQ would certainly enhance. In the said meeting, it was also decided to appoint specialist doctors in each attached hospital purely on contract basis (non-transferrable) and on market based fixed salary. Such recruitment will be conducted by the respective Teaching Hospital Management Boards. The terms and conditions of the contract service and the performance evaluation criteria will be formulated by the Chairman Teaching Hospital Management Boards'.

Besides Deputy Secretary Finance present submits report with regard to allocation of budget in different colleges and unities, same is taken on record. Being relevant Para-3 is that:

"3. However, the shifting of budget of Tertiary Hospitals in Sindh from existing 'detailed object-wise allocation' to new mechanism of 'single line transfer' is a major policy / administrative decision having its implications on future administrative and financial standards of these hospitals particularly compliance of fiscal discipline and transparency. Besides, the provisions of the Sindh Teaching Hospital [Establishment of Management Board] Act, 2020 should also be kept in mind by the Finance

Department and or the Health Department specially in the absence of any Rules or Regulations made so far under this Act. Further the Section-4(1) of the Act says that the Management Board shall be as advising body of every Teaching Hospital for its Administration".

Secretary Finance present contends that they will examine the summary submitted by Health Secretary and will decide the same while keeping in view the interest of public at large and will try not to create any technical hurdle unless barred by legal procedure. Secretary Health and Secretary Finance shall resolve the issue on their departmental side and to comply order of this court as well. As well as Finance Department shall ensure that single line budget is provided to Tertiary Hospitals as suggested by the Home Department.

Home Secretary was directed on last hearing to submit details of vacant posts and their steps to fill those vacancies. Today none is present for Home Secretary, accordingly, issue show cause notice to Home Secretary and Focal Person of Chief Secretary shall be in attendance on the next date.

With regard to amendment in rules for allocation 15% post of special cadre working in different hospitals. Secretary Health may deliberate through Rules Committee which is already existing and working on administrative cadre rules as well as medical legal cadre issues.

To come up on **22.11.2021**.

JUDGE

JUDGE