

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**CP No. D-1691 of 2024**

( *Rozi Zahid v. Federation of Pakistan & Others* )

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<b>DATE:</b>	<b>ORDER WITH SIGNATURE(s) OF JUDGE(s)</b>
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**Before:**

**Mr. Justice Muhammad Faisal Kamal Alam**  
**Justice Ms. Sana Akram Minhas**

Mr. Malik Naeem Iqbal, Advocate for Petitioner  
Mr. Farhatullah Yaseen & Mr. Amjad Ali, Advocates for Respondent No.2 (KPT)

**Date(s) of Hearing:** 3-9-2025 & 10-9-2025

**Date of Decision:** 12-11-2025

**O R D E R**

1. **Sana Akram Minhas, J:** The Petitioner, a doctor, appointed in Respondent No.2 viz. the Karachi Port Trust (“**KPT**”) on 24.11.2000, has primarily challenged four actions of KPT communicated through letters dated 23.1.2023 (“**Impugned Letter No.1**”) and 13.6.2023 (“**Impugned Letter No.2**”) respectively. These actions are:

**Impugned Letter No.1**

- (i) The re-designation of the post of Deputy Chief Medical Officer, Clinical (BPS-19) (“**Dy.CMO-Clinical**”) as Senior Medical Officer, Clinical (BPS-19) (“**SMO-Clinical**”);
- (ii) The Petitioner’s transfer to this newly re-designated post of SMO-Clinical – despite her earlier promotion (with effect from 14.1.2022) to the post of Dy.CMO-1 (Administration)<sup>1</sup> (BPS-19) in Medical Department and thereafter successful completion of her one-year probationary period (on 13.1.2023);
- (iii) Rather than confirming the Petitioner on the post of Dy.CMO-1 (Admin) (BPS-19), the replacement of the Petitioner by a junior

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<sup>1</sup> According to the Petitioner, the post and job description of DCMO-1 pertain to the “Administration” side (**see Court File Pg.19**), whereas the post of DCMO-II pertains to the “Clinical” side (**see Court File Pg.21**)

officer, namely, private Respondent No.4 (Dr. Ghazala Jawed (BPS-18)), who has been posted as Acting Dy.CMO (Admin).

### **Impugned Letter No.2**

- (iv) Confirmation of the Petitioner to this newly re-designated post of SMO-Clinical retrospectively with effect from 14.1.2023, and that too when this post itself has been created for the first time on 23.1.2023 vide Impugned Letter No.1.

### **Respective Submissions**

2. Learned Counsel for the Petitioner has argued that the Petitioner's transfer from Dy.CMO (Admin) to SMO-Clinical and posting of a junior officer (Respondent No.4) in the Petitioner's place vide Impugned Letter No.1 is illegal and solely intended to favour Respondent No.4; the Petitioner's removal from the post of Dy.CMO (Admin) and the arbitrary re-designation of Dy.CMO-Clinical as SMO-Clinical, without any plausible justification and in absence of any revision in service structure, are malafide and without lawful authority, as the Chairman KPT acted under powers allegedly delegated through Board Resolution No.334<sup>2</sup> dated 8.5.2003 ("**BR 334**"), whereas Section 17(3) of the *Karachi Port Trust Act, 1886* ("**Act 1886**") allows delegation only to committees of trustees, not to individuals, rendering the action void ab initio; that even assuming valid delegation, the Chairman could not remove a BPS-19 officer (Petitioner) duly promoted by the Board, under the guise of transfer or confirm her against a post to which she was never appointed or completed probation; that the confirmation as SMO-Clinical also contravenes Regulations 6(b) and (e) of the *Karachi Port Trust Officers Recruitment, Appointment, Seniority & Promotion Regulations, 2011* ("**Regulations 2011**"), which require confirmation only against the post of promotion. The Petitioner was never promoted as SMO-Clinical, and her original post to which she was promoted remained available but was unlawfully occupied by Respondent No.4. Finally, the Petitioner's confirmation dated 14.1.2023 is void, as it preceded the creation of the SMO-Clinical post, which came into existence later around 23.1.2023 through re-designation.

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<sup>2</sup> **388 Resolution:** "The Board considered Agenda Item No.2 and sanctioned to delegate its powers to the Chairman with regard to payment of pension, dual duty allowance, resignation, Voluntary Retirement, Payment of Leave Pay in lieu of L.P.R, re-designation of posts and transfer of posts from one Division / Department to another Division / Department of KPT in respect of officers upto BPS-19, as recommended by the Manager (HR) duly endorsed by General Manager (A)."

3. Narrating the sequence of events, the Petitioner's Counsel submitted that through an interim order dated 8.4.2024, this Court had restrained KPT from confirming Respondent No.4 on the post of Dy.CMO (BPS-19). However, in violation of the said order, KPT, by letter dated 30.9.2024, proceeded to confirm Respondent No.4 as Dy.CMO. This led the Petitioner to file a contempt application (CMA No.21633/2024), which was subsequently disposed of by order dated 22.11.2024, upon KPT's withdrawal of the aforesaid confirmation letter and tender of an unconditional apology.
4. Learned Counsel for KPT contended that under Section 20(2) of Act 1886, the Chairman exercises supervisory and administrative control over all officers and servants of the Board of Trustees of Port of Karachi ("**Board**"), subject to the Board's regulations framed under Section 22 of Act 1886. He submitted that both the Petitioner and Respondent No.4 were duly promoted from BPS-18 to BPS-19 by the Board under Section 23(a) & (b) of Act 1886; that through BR 334, the Board lawfully delegated to the Chairman its authority to re-designate and transfer posts up to BPS-19, and that, acting under this delegation, which position finds further support in Regulations 6 and 9 of Regulations 2011, the Chairman re-designated the post of DCMO-II i.e. Dy.CMO-Clinical (BPS-19) as SMO-Clinical (BPS-19) and transferred the Petitioner from DCMO-1 (Admin) to SMO-Clinical; that both posts are in the same grade, carrying identical pay, privileges, and status; hence, the Petitioner suffered no loss or reduction of rights. The impugned actions, therefore, fall squarely within the scope of lawful statutory and regulatory authority. He maintained that under Regulation 3 of Regulations 2011, pre-existing service decisions cannot be reopened, and since BR 334 predates these Regulations, the delegation of authority to the Chairman stands fully protected; that an employee has no preferential or vested right to a particular posting or station, as transfer falls within administrative discretion.

#### **Opinion Of The Court**

5. Arguments of respective Counsel have been heard and record has been perused.

#### *Delegation Of Board's Authority To Chairman Under BR 334 Dated 8.5.2003*

6. With respect to the delegation of the Board's authority to the Chairman under BR 334, Counsel for KPT had contended that the Board, in exercise of its powers, lawfully delegated to the Chairman the authority to re-designate and transfer posts up to BPS-19. Acting under this delegation – reinforced by

Regulations 6<sup>3</sup> and 9<sup>4</sup> of the Regulations 2011 – the Chairman re-designated the post of DCMO-II (Dy.CMO-Clinical, BPS-19) as SMO-Clinical (BPS-19) and accordingly transferred the Petitioner from DCMO-1 (Admin) to SMO-Clinical. The Petitioner's promotion on 14.1.2022, transfer on 23.1.2023, and confirmation with effect from 14.1.2023 were all validly effected under this delegation.

7. To address this submission, it is necessary to refer to both Regulation 6 and 9 of the Regulations 2011 as well as Section 24 of Act 1886.
8. It is evident that Regulation 6 exclusively concerns the confirmation of officers in their respective posts or cadres and lays down the conditions under which such confirmation takes effect. It has no bearing whatsoever on the delegation of authority by the Board, nor does it vest any additional powers in the Chairman. Therefore, KPT's reliance on Regulation 6 to justify the delegation under BR 334, or the Chairman's subsequent exercise of transfer and re-designation powers, is wholly misplaced and legally untenable.
9. Coming to Regulation 9, it pertains solely to the posting and transfer of officers within KPT in the ordinary course of service administration. The provision enables the Chairman to effect transfers within the organization as required, subject to the overarching control of Section 24 of Act 1886, which reserves the Board's authority over appointments, promotions, and terms of service. The proviso further safeguards officers from adverse alteration of their service conditions when posted outside their cadre and requires their consent for such assignments.

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<sup>3</sup> Regulation No.6: CONFIRMATION:

- (a) A person appointed on probation shall, on satisfactory completion of probation be eligible for confirmation, in a cadre or on a post as the case may be.
- (b) An officer promoted to a post or cadre on regular basis shall be eligible for confirmation after rendering satisfactory service for the period prescribed for confirmation therein.
- (c) There shall be no confirmation against any temporary post. An officer who, during the period of his service, was eligible to be confirmed against any cadre or post retires from service before being confirmed shall not, merely by reason of such retirement, be refused confirmation in such cadre or post or any benefits accruing there from.
- (d) Confirmation of an officer in a cadre or post shall take effect from the date of occurrence of permanent vacancy in that cadre or post or from the date of continuous officiating in such, cadre or post, whichever is later.

<sup>4</sup> Regulation No.9: POSTING AND TRANSFER:

The Chairman / Chairperson may transfer any officer within KPT as per requirement subject to provision of Section 24 of KPT Act.

Provided further that, where a KPT Officer is; required to serve in a post outside his 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. However, the consent of the officer to serve outside his service or cadre be obtained.

10. Thus, Regulation 9 is purely procedural and administrative in nature – it governs how transfers are to be made but does not create or expand the scope of authority vested in the Chairman beyond what the parent statute permits. It cannot be read to validate any prior or independent delegation of power by the Board, nor can it override or regularize actions taken without proper statutory sanction. Accordingly, reliance on Regulation 9 to justify the Chairman’s exercise of delegated authority under BR 334 is misconceived, as the said Regulation regulates how transfers may be made.
11. Similarly, an examination of Section 24 of Act 1886 reveals that the authority to make orders or regulations pertaining to officers in BPS-19 vests exclusively in the Board, and not in the Chairman. It provides:

**24. Orders and regulations for officers** – *Every order or regulation shall be made by:*

- (i) *the Chairman, in the case of officers in Basic Pay Scale 16 to 18;*
- (ii) *the Board, in respect of officers holding posts in Basic Pay Scales 19; and*
- (iii) *the Board, subject to the approval of the Federal Government, in respect of officers holding posts in Basic Pay Scale 20 and 21.*

The statutory framework thus draws a clear demarcation of powers – while the Chairman may exercise administrative control over officers up to BPS-18, matters pertaining to officers in BPS-19 and above fall within the jurisdiction of the Board itself.

12. Having examined the above, it is pertinent to highlight Section 17(3) of Act 1886, which specifically regulates the Board’s power of delegation – a provision to which no reference has been made by the Counsel for KPT during arguments. Section 17(3) stipulates:

**17. Provisions concerning the Board’s proceedings** – *The following provisions shall be observed with respect to the proceedings of the Board (namely):*

- (1) ... ..
- (2) ... ..
- (2A) ... ..

(3) *Board may delegate powers to committees: **The Board may appoint committees** consisting of such trustees as it thinks fit to examine and advise the Board on any matter referred to the Committees **and may also delegate to such committees such of its powers as it may think fit.** Any committee so formed shall conform to any instructions that may from time to time be given to it by the Board and the Board may at any time discontinue or alter the constitution of any committee so formed.*

**[Emphasis added]**

13. It is thus patent that the Act 1886 permits the Board to delegate its powers only to committees composed of trustees, and not to any individual officer, including the Chairman. The statutory scheme confines the delegation mechanism to a collective body (a committee) operating under the Board's instructions and supervision, ensuring that the Board retains ultimate control and oversight. Therefore, BR 334, which purports to delegate the Board's powers of re-designation and transfer to the Chairman acting unilaterally (instead of through a committee), is inconsistent with the express terms of Section 17(3) of Act 1886, and is consequently *ultra vires* the parent statute. Any authority exercised by the Chairman under such delegation is devoid of lawful foundation and cannot derive legitimacy from a board resolution that contravenes the governing Act 1886.
14. Similarly, any delegation purporting to transfer the Board's powers under Section 24(ii) of Act 1886, to the Chairman would likewise be *ultra vires* the said Act, as such authority to make orders or regulations concerning officers in BPS-19, is statutorily vested in the Board itself. Regulation 9 of Regulations 2011, being subordinate legislation, cannot override or enlarge the statutory limits prescribed by Section 24 of Act 1886. Accordingly, the Chairman's actions affecting a BPS-19 post – whether purportedly based on BR 334 or Regulation 9 – lack legal sanction under the governing statute i.e. Act 1886.

*Board Resolution 334 Protected By Regulation 3 Of Regulations 2011*

15. In defence of BR 334, KPT's Counsel has argued that Regulation 3 of the Regulations 2011 shields pre-existing service decisions from being reopened. It is averred that since BR 334 predates the 2011 Regulations, the delegation of authority to the Chairman stands fully protected, thereby validating the Chairman's subsequent actions relating to re-designation and transfer. This argument, however, is misconceived. Regulation 3 provides as follows:

Regulation No.3 of Regulations 2011

*Nothing in these regulations shall affect or authorize the re-opening of any decision as to conditions of service of an Officer made before the commencement of these regulations on the ground that such a decision is not consistent with the provisions of these regulations.*

16. As is evident from the plain wording of Regulation 3, the protection it affords is confined strictly to decisions as to conditions of service of an officer made prior to the commencement of the Regulations 2011. BR 334, however, does not constitute a "service decision" concerning an officer's terms or conditions of employment within the meaning of Regulation 3 of Regulations 2011;

rather, it purports to delegate the Board's statutory powers to the Chairman. To term such a delegation as a "service decision" is a clear mischaracterization and contrary to the scope and intent of Regulation 3.

17. Moreover, even if BR 334 were assumed to have been valid when passed, the impugned actions – viz. the re-designation of the post and the Petitioner's transfer through Impugned Letters dated 23.1.2023 and 13.6.2023 – were undertaken long after the commencement of Regulations 2011 (notified on 11.1.2011) and are, therefore, subject to their operation. Since these actions were taken subsequent to 2011, they must conform to the said Regulations and, consequently, cannot seek shelter under Regulation 3, nor can they evade scrutiny under the Act 1886, under which they must ultimately pass muster. Accordingly, the KPT's reliance on Regulation 3 to validate either the delegation under BR 334 or to justify the impugned re-designation and transfer is legally untenable.

### **Conclusion**

18. Given the foregoing, this Petition along with pending application(s) is **disposed of** with no order as to costs, as follows:
  - i) The Board Resolution No.334 dated 8.5.2003 is not protected or validated by Regulation 3 of the *Karachi Port Trust Officers Recruitment, Appointment, Seniority & Promotion Regulations, 2011* and remains open to legal scrutiny, as the said Board Resolution falls outside the ambit of Regulation 3;
  - ii) The delegation of the Board's authority to the Chairman under Board Resolution No.334 is illegal, *ultra vires*, devoid of statutory sanction, being contrary to Section 17(3) and Section 24(ii) of the *Karachi Port Trust Act, 1886* – as Section 17(3) permits the Board to delegate its powers only to committees composed of trustees, and not to any individual officer while under Section 24(ii) matters pertaining to officers in BPS-19 and above fall within the jurisdiction of the Board itself;
  - iii) The Impugned Letters No.1 and No.2 dated 23.1.2023 and 13.6.2023 respectively, issued under the purported delegation of powers through Board Resolution No.334, are without lawful authority, void and of no legal effect;
  - iv) The KPT shall reconsider the Petitioner's case for confirmation as Dy.CMO (Administration) and/or present posting in accordance with

the governing Act 1886 and the applicable service rules and regulations.

- v) The findings recorded herein in respect of Board Resolution No.334 and the two Impugned Letters dated 23.1.2023 and 13.6.2023 are confined strictly to the Petitioner and private Respondent No. 4, and does not extend to any other person or proceeding.

**JUDGE**

**JUDGE**