

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-2437 of 2026
[Rozi Zahid V. Federation of Pakistan and others]

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and Order: 07.09.2026

Mr. Malik Naeem Iqbal, Advocate for the Petitioner.
M/s. Zubair Ali Butt and Muhammad Ashar Shahwani, Advocates for Respondents.
Ms. Wajiha Mahdi, Assistant Attorney General.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner Rozi Zahid has filed this Constitution Petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeking following relief:-

- i. *Declare that the Board Resolution No.343 dated 30.01.2026 is illegal, mala fide, arbitrary, discriminatory and in violation of the judgment dated 12.11.2025 and Section 21 of Karachi Port Trust Act, 1886 as well as Regulation 6 of KPT Officers Recruitment, Appointments, Seniority and Promotion Regulations, 2011, and set aside the same forthwith.*
- ii. *Declare that the order dated 14.04.2026 assigning additional duties/charge of Dy. Chief Medical Officer (BPS-19) to Dr. Muhammad Asim (BPS-18) is illegal, arbitrary, mala fide, without jurisdiction and set aside the same forthwith.*
- iii. *Direct the Respondents No.2 and 3 to issue confirmation letter of the petitioner against the post of Deputy Chief Medical Officer-I (Admin) (BPS-19) w.e.f. 14.01.2023 forthwith and allow her to perform duties against the said post.*

2. The petitioner’s case is that she was promoted by the KPT Board to the post of DCMO-I (Admin) (BPS-19) with effect from 14.01.2022. However, the post of DCMO-II (Clinical) was subsequently re-designated as Senior Medical Officer (Clinical), and she was transferred and later confirmed against the said post, which, according to her, was not a legally sanctioned post. Aggrieved, she filed C.P. No. D-1691 of 2024, which was disposed of by this Court vide judgment dated 12.11.2025 with a direction to the respondents to reconsider her case for confirmation as DCMO-I (Admin), or against her present posting, in accordance with the KPT Act, 1886 and the applicable service rules and regulations. According to the petitioner, instead of complying with the said judgment, the respondents passed Board Resolution No.343 dated 30.01.2026, whereby she was merely “maintained” on the post of Senior Medical Officer (Clinical), despite the alleged non-existence of such post. She thereafter initiated contempt proceedings, but the respondents claimed compliance based on the said Board Resolution. The contempt petition was ultimately disposed of on 16.04.2026 with liberty to the petitioner to seek redressal through a fresh

constitutional petition. The petitioner further averred that following the retirement of Dr. Ghazala Jawed on 04.04.2026, instead of considering her, a senior BPS-19 officer already promoted by the Board, for the post of DCMO-I, the respondents, vide order dated 14.04.2026, assigned the additional charge of Dy. Chief Medical Officer (BPS-19) to Dr. Muhammad Asim, a junior BPS-18 officer whose promotion case had allegedly been twice placed before the Board but was not recommended. She therefore alleges that the respondents' conduct is arbitrary, discriminatory, mala fide, and in disregard of the binding judgment of this Court, the KPT Act, 1886, the KPT Officers Recruitment, Appointment, Seniority and Promotion Regulations, 2011, and the principles of natural justice. Accordingly, she seeks appropriate constitutional relief against the impugned actions and for consideration of her claim to the post of DCMO-I (Admin) in accordance with law.

3. Learned counsel for the petitioner submitted that the impugned actions of the respondents were contrary to the Constitution, law, applicable rules and principles of natural justice. He contended that under Section 21 of the Karachi Port Trust Act, 1886, the Board was required to sanction the schedule of posts, whereas the post of SMO (Clinical) was neither a sanctioned post nor validly created or re-designated. He argued that, particularly in view of this Court's judgment dated 12.11.2025 whereby the re-designation of the post of DCMO-II (Clinical) as SMO (Clinical) had already been declared void, Board Resolution No.343 dated 30.01.2026 was without lawful authority and liable to be set aside. Learned counsel further submitted that the order dated 14.04.2026 assigning additional charge of Deputy Chief Medical Officer (BPS-19) to Dr. Muhammad Asim, a BPS-18 officer, was arbitrary, unlawful and contrary to the aforesaid judgment. He pointed out that Dr. Muhammad Asim had twice been found unsuitable for promotion to the said post by the Board itself, whereas the petitioner, a BPS-19 officer, had been found suitable and promoted by the Board as Deputy Chief Medical Officer-I (Administration) (BPS-19). The petitioner, having successfully completed her probation, therefore had a legitimate expectation of confirmation against the post to which she had been promoted. It was further argued that the posts of Deputy Chief Medical Officer (Administration) and Deputy Chief Medical Officer (Clinical) were distinct posts carrying separate functions and job descriptions. Since the petitioner had been considered and promoted against the post of DCMO-I (Administration), she could not lawfully be confirmed against the post of SMO (Clinical), against which she had never been promoted. Counsel contended that the purported re-designation of the Clinical post, despite the continued availability of the post of DCMO-II (Clinical), appeared to have been undertaken merely to defeat the petitioner's legitimate claim for confirmation and to accommodate junior officers. Even

assuming the Board possessed the power of re-designation, such power had to be exercised reasonably, fairly and with lawful justification, which was absent in the present case. Learned counsel maintained that the entire exercise was tainted with mala fide, discriminatory and arbitrary considerations and was intended to deprive and harass the petitioner. He submitted that the petitioner had already exhausted her departmental remedies and had no other adequate and efficacious remedy. Accordingly, he prayed that Board Resolution No.343 dated 30.01.2026 and the order dated 14.04.2026 be set aside, and the respondents be directed to confirm the petitioner against the post of Deputy Chief Medical Officer-I (Administration) (BPS-19) with effect from 14.01.2023 and permit her to perform duties against the said post. He prayed to allow this petition.

4. Counsel for Respondent Nos. 2 and 3, Karachi Port Trust (KPT), opposed the petition and submitted that it was misconceived, not maintainable, and based on allegations unsupported by any violation of law, statutory right, or constitutional provision. He contended that the Petitioner had no vested or exclusive right to seek posting, placement or confirmation against the post of Deputy Chief Medical Officer (DCMO), as such matters fall within the administrative discretion of the competent authority. It was pointed out that four officers senior to the Petitioner in BPS-19 were available in the same cadre and that assignment of duties or additional charge was an administrative arrangement based on organizational requirements, experience and exigencies. Counsel further submitted that the additional charge of DCMO given to Dr. Muhammad Asim was only a stop-gap arrangement after retirement of the incumbent and neither amounted to promotion nor permanent appointment. Pursuant to the Court's order dated 16.06.2026, the said additional charge had already been withdrawn. He denied any mala fide or violation of the judgment dated 12.11.2025 and maintained that the Petitioner had been duly confirmed in BPS-19 in accordance with the applicable regulations. It was further argued that the Board of Trustees was competent under the KPT Act, 1886 and applicable service regulations to undertake restructuring and re-designation of posts. The Petitioner's claim for confirmation against a particular post was therefore not enforceable as a matter of right. Counsel also submitted that the Petitioner's performance was below the required standard and that her suitability for the DCMO post was assessed in the larger interest of the organization. He denied allegations of violation of natural justice, mala fide, harassment or discrimination and stated that the Petitioner's case had been duly considered and reconsidered by the Department. Lastly, counsel submitted that the Petitioner had concealed material facts and was attempting to re-agitate a controversy already considered by the competent authority. Relying upon the principle that constitutional jurisdiction should not be exercised to interfere with matters falling within the executive domain in the

absence of patent illegality or jurisdictional error, he prayed that the petition be dismissed.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. We are of the considered view that the impugned Board Resolution No.343 dated 30.01.2026, or Resolution No.54 as referred to in the record, cannot be sustained. The earlier judgment had not merely directed the respondents to reconsider the petitioner's case in the abstract; rather, it had specifically declared the re-designation of the post of Deputy Chief Medical Officer (Clinical) as Senior Medical Officer (Clinical), as well as the consequential transfer and confirmation of the petitioner against such re-designated post, to be without lawful authority and of no legal effect. Once the said action stood annulled, the respondents could not, under the guise of compliance, restore the same arrangement by subsequently resolving to "maintain" the petitioner against the very post whose legal foundation had already been struck down by this Court.

7. The expression "reconsider" used in the judgment dated 12.11.2025 necessarily required the competent authority to examine the petitioner's entitlement afresh in accordance with the statutory scheme and applicable service regulations. It did not confer upon the Board an unrestricted power to nullify the effect of the judgment or to arrive at the same conclusion by adopting a different form of resolution. A judgment declaring an administrative act to be without lawful authority cannot be defeated by merely passing a subsequent administrative order reproducing, in substance, the same invalid action. Such an exercise would amount to circumvention of the judgment rather than its implementation.

8. The statutory scheme of the Karachi Port Trust Act, 1886 also militates against the respondents' position. Section 21 requires the schedule of officers, servants and posts of the Trust to be sanctioned in accordance with law. Therefore, the continuation or assignment of an officer against a post must have its foundation in a duly sanctioned and legally existing post. The respondents could not, through a subsequent Board resolution, create, revive, re-designate or continue a post in a manner inconsistent with the statutory framework, particularly when the very re-designation of the post as Senior Medical Officer (Clinical) had already been declared invalid by this Court. A resolution of the Board cannot substitute for the statutory sanction required by the parent enactment.

9. Equally significant is Section 24(ii) of the Karachi Port Trust Act, 1886, under which matters relating to officers in BS-19 and above fall within the

competence of the Board. Although the Board is undoubtedly the competent statutory authority in relation to such officers, its power is nevertheless subject to the parent statute, the applicable regulations and, most importantly, the binding judgment of this Court. The existence of statutory competence does not mean that such competence may be exercised contrary to law. The Board was therefore competent to reconsider the petitioner's case, but it was not competent to revive an arrangement already declared to be without lawful authority or to defeat the substantive effect of the judgment dated 12.11.2025.

10. The same conclusion follows from the Karachi Port Trust Officers Recruitment, Appointment, Seniority and Promotion Regulations, 2011. Regulation 6 regulates the question of confirmation and cannot be construed as conferring upon the respondents a power to confirm an officer against a post which is not legally available or against which the officer was never promoted. Likewise, the regulations governing transfer and service matters cannot enlarge the powers conferred by the Karachi Port Trust Act, 1886. Subordinate legislation must operate within the limits of the parent statute and cannot be relied upon to validate an administrative action which lacks statutory foundation.

11. The petitioner's position is further strengthened by the undisputed fact that she was promoted by the competent Board against the post of Deputy Chief Medical Officer-I (Administration) (BS-19) with effect from 14.01.2022 and, according to the record, completed her probation. Her claim for confirmation was therefore required to be considered with reference to the post against which she was actually promoted. There is a material distinction between the posts of Deputy Chief Medical Officer (Administration) and Senior Medical Officer (Clinical), particularly when they carry different functions, responsibilities and job descriptions. An officer promoted against one post cannot, without lawful authority and due process, be treated as having been promoted or confirmed against another distinct post merely because the administration subsequently seeks to alter the nomenclature or structure of the post.

12. More importantly, the respondents have not demonstrated any lawful basis on which the petitioner, after the judgment dated 12.11.2025, could again be placed against the post of Senior Medical Officer (Clinical). The previous re-designation and consequential transfer had already been struck down. Consequently, the subsequent resolution maintaining the petitioner against that same post suffers from the same fundamental defect. The principle of *actus curiae neminem gravabit* and the binding character of judicial orders require the parties to faithfully give effect to the judgment and prohibit an administrative authority from doing indirectly what it has been restrained from doing directly.

13. The subsequent assignment of additional charge of Deputy Chief Medical Officer (BS-19) to Dr. Muhammad Asim, admittedly a BS-18 officer, also requires examination in the context of the petitioner's subsisting claim. If a duly sanctioned BS-19 post of Deputy Chief Medical Officer was available after the retirement of Dr. Ghazala Javed, the respondents were required to consider the matter in accordance with the applicable service rules, seniority, promotion scheme and the petitioner's existing status. Administrative discretion in making an additional-charge arrangement is not absolute and cannot be exercised arbitrarily or for the purpose of bypassing a lawful claim of an eligible senior officer. Particularly where the petitioner had already been promoted by the Board to BS-19 and her earlier placement against the clinical post had been declared unlawful, the respondents were required to provide cogent, lawful and objective reasons for excluding her from consideration.

14. The respondents' reliance upon Board Resolution No.343 as constituting compliance with the judgment dated 12.11.2025 is therefore misconceived. Compliance with a judicial order is to be determined from its substance and not from the mere fact that the matter was again placed before the competent authority. The competent authority was required to reconsider the petitioner's case consistently with the declarations and findings recorded by this Court. By maintaining her against the same re-designated post which had ceased to have legal effect, the Board effectively negated the judgment instead of implementing it. Such an exercise cannot receive judicial approval.

15. It is also settled that an administrative authority cannot exercise statutory power for an improper purpose, arbitrarily, discriminatorily or in a manner which defeats a vested or legitimate claim recognized under the applicable law. Where an authority acts pursuant to a statutory power, the exercise of that power must remain within the four corners of the statute and must satisfy the requirements of fairness, reasonableness and non-discrimination. The impugned resolution, in the circumstances of the present case, fails this test because no independent lawful foundation has been shown for again placing the petitioner against the post of SMO (Clinical), after the earlier re-designation had already been annulled.

16. We, therefore, find that the impugned Board Resolution is not a lawful reconsideration of the petitioner's case but, in substance, a repetition of the very action which had already been declared without lawful authority. It consequently cannot override, dilute or circumvent the judgment dated 12.11.2025. The petitioner's original promotion against the post of Deputy Chief Medical Officer-I (Administration) (BS-19) could not lawfully be displaced merely by maintaining her against the post of Senior Medical Officer (Clinical), particularly when the latter post had no surviving legal foundation pursuant to the earlier judgment.

17. Accordingly, Board Resolution No.343 dated 30.01.2026, to the extent it maintains the petitioner against the post of Senior Medical Officer (Clinical) (BS-19), is declared to be without lawful authority and of no legal effect and is hereby set aside. The order dated 14.04.2026 assigning additional charge of Deputy Chief Medical Officer (BS-19) to Dr. Muhammad Asim shall also not prejudice the petitioner's lawful entitlement and shall remain subject to reconsideration by the competent authority strictly in accordance with the Karachi Port Trust Act, 1886 and the applicable service regulations.

18. The respondents are consequently directed to reconsider and process the petitioner's case for confirmation against the post of Deputy Chief Medical Officer-I (Administration) (BS-19), against which she was originally promoted, in accordance with Section 21 and other relevant provisions of the Karachi Port Trust Act, 1886 and the applicable 2011 Regulations. If the said post is a duly sanctioned and existing post and the petitioner has fulfilled the prescribed conditions for confirmation, her case shall be decided accordingly by a reasoned order within a stipulated period. The respondents shall not defeat her claim merely by restoring or relying upon the previously invalid re-designation of the post as Senior Medical Officer (Clinical).

19. For the foregoing reasons, the petition is allowed to the above extent. The impugned Board Resolution is set aside to the extent challenged, and the respondents are directed to undertake the petitioner's consideration strictly in accordance with the statute, applicable regulations and the judgment dated 12.11.2025. No order as to costs.

JUDGE

JUDGE

Sajid