

INQUIRY REPORT

ON ILLEGAL PROMOTION AND OTHER CHARGES ON MR. ASIM RAUF ADDITIONAL DIRECTOR/ACTING CEO, DRAP

Part-A

Prologue

The preface of the inquiry is that:

- i. A letter dated 26-03-2020 was received from Prime Minister's Office alongwith complaint dated 07-01-2020 and 12-02-2020 of Mr. Muhammad Rizwan Asghar (CNIC: 33100-4618105-3), a resident of House No. P-378, Street No. 01, Muhala Baghbanpura, Faisalabad (**Annex-I**);
- ii. Later on, a letter dated 25-03-2020 was received from National Accountability Bureau, Rawalpindi alongwith similar complaint 26-10-2019 of Mr. Haroon Yousaf, President, Pakistan Young Pharmacist Association, Lahore (**Annex-II**);
- iii. Subsequently, Prime Minister's Office vide letter dated 22-06-2020 forwarded another complaint of Mr. Muhammad Rizwan Asghar with more allegations and documents vide his application dated 16-06-2020 (**Annex-III**);
- iv. Furthermore, another un-dated application received on 13-07-2020 from the complainant Mr. Muhammad Rizwan Asghar alongwith more documents and deliberations (**Annex-IV**);
- v. Another letter dated 20-07-2020 alongwith same un-dated complaint of Mr. Muhammad Rizwan Asghar was also received from Prime Minister's Public Affairs and Grievances Wing, Ministry of Parliamentary Affairs (**Annex-V**).

Authority and procedure of Inquiry Committee:

2. With approval of the Secretary, Ministry of National Health Service, Regulations and Coordination (NHSR&C), an Inquiry Committee was constituted and directed to submit report vide Office Order No. F.7-35/2019-Admn-II dated 29-04-2020 (**Annex-VI**). However, the Committee requested the Secretary, Mo NHSR&C to give reasonable time due to multiple issues to probe into the matter. The composition of the Committee is as under;

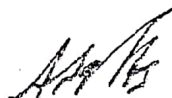
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|--|----------|
| i. Joint Secretary (Admn), M/o NHSR&C | Chairman |
| ii. Deputy Secretary (Estab-I), M/o NHSR&C | Member |
| iii. Deputy Secretary (Admn), M/o NHSR&C | Member |

3. Subsequently, the Chairman, Inquiry Committee issued a letter dated 12-05-2020 *ad colligenda bona* to the members of the Committee to visit Drug Regulatory Authority of Pakistan (DRAP) Office, to meet with the concerned persons of DRAP and inquire about preliminary information heading towards the core issues (**Annex-VII**). The Committee members visited DRAP Headquarter on 13-05-2020, met with Acting Chief Executive Officer (CEO), DRAP, Acting Director (HR), Deputy Director (Legal) and Deputy Director (Admn) and requested to cooperate and provide necessary support and documents as well as to nominate a Focal Person to liaison with the Committee whenever required. CEO-DRAP nominated the Focal Person on 10-09-2020 (*after more than four month*) to liaison with Inquiry Committee (**Annex-VIII**).

Causes of Delay:

4. There were some major reasons and foottraces of delay in submission of the report;

Firstly: Difficulties in tracing of record in the Ministry and Drug Regulatory Authority of Pakistan (DRAP). Record and files, related to Defunct Ministry of Health and its other defunct Departments, could not be made fully available. However, relevant documents have been traced/verified through other possible means with personal efforts of the Committee members;



Secondly: Received another letter from Prime Minister's Office dated 22-06-2020 forwarding another complaint of Mr. Muhammad Rizwan Asghar with more allegations vide his application dated 16-06-2020 as well as he attached therewith one short clip of movie in which, he claimed that, official record of DRAP was being destroyed in the office of CEO, DRAP which was needed to be further examined;

Thirdly: Enhanced workload due to closing of the fiscal year 2019-20 caused slow progress of the inquiry in June 2020. Hectic workload of official business, some important and reforms related legislation matters, summaries to the Cabinet and Prime Minister as well as unforeseen tasks in wave of COVID-19 Pandemic hindered to work on inquiry continuously;

Fourthly: Reduced manpower and intervals in official working due to COVID-19 positive cases also forced to keep less interaction with officers/officials.

Fifthly: Another application received on 13-07-2020 from the same complainant Mr. Muhammad Rizwan Asghar alongwith more documents through Ministry of Parliamentary Affairs vide letter dated 20-07-2020;

Sixthly: Chairman, Inquiry Committee was engaged in mandatory Senior Management Course which practically ended on 24-07-2020. Meanwhile, members kept working on inquiry.

Seventhly: Some important and requisite documents were sought from DRAP vide Ministry's Memoranda dated 26-08-2020, 27-08-2020 and 09-09-2020 (**Annex-VIII-A**). DRAP provided some documents vide their letter dated 10-09-2020 (**Annex-VIII**). Concerned Admn Section was also requested vide U.O. Note dated 09-09-2020 and they provided record whatever was available vide U.O. Note dated 09-09-2020 (**Annex-IX**). DRAP was again requested vide Memorandum dated 15-09-2020 for provision of remaining information, however, DRAP provided

information vide their U.O. letter dated 21-09-2020 which was asked previously. Consequently, same information was sought from concerned Admn Section of the Ministry vide U.O. Note dated 25-09-2020 and the Section replied vide letter dated 25-09-2020 describing therein that the requisite documents/record is not available in the Ministry (**Annex-X**). DRAP was requested to provide some important and remaining documents vide Ministry's letter dated 25-09-2020 (**Annex-XI**) but DRAP has failed to provide information as of 20-10-2020.

Main Referral Documents:

5. The following main documents are required to be mentioned and referred repeatedly:

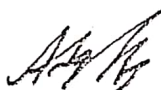
- i. The Drug Regulatory Authority of Pakistan (DRAP) Act-2012 (**Annex-XII**);
- ii. DRAP Employees Service Regulations-2015 dated 21-04-2015 (**Annex-XIII**);
- iii. DRAP Employees Service Regulations-2015 (*First Amendments*) dated 10-09-2015 (**Annex-XIV**);
- iv. DRAP Employees Service Regulations-2015 (*Second Amendments*) dated 23-06-2017 (**Annex-XV**);
- v. DRAP Employees Service Regulations-2015 (*Third Amendments*) dated 15-01-2020 (**Annex-XVI**).

Part-B

Allegations leveled by complainants

6. Mr. Muhammad Rizwan Asghar, resident of Faisalabad leveled allegations vide complaint dated 7th January 2020 (**Annex-I**):

Allegation-1: That Mr. Asim Rauf (Federal Inspector of Drugs) BS-18 joined Drug Regulatory Authority of Pakistan in June 2015 as a Public Servant (RO 13) and smartly filed a case in Federal Services Tribunal (FST) Lahore in 2015 pretending himself as a civil servant. With collusion and



conspiracy of the then CEO, DRAP and Director Administration (DRAP), Drug Regulatory Authority of Pakistan (DRAP) became party in FST and DRAP started replying in FST, Lahore while the case was "**Asim Rauf Vs....M/o Health**". It is pertinent to mention here that DRAP don't have Rules under Section 23 of DRAP ACT 2012 nor posts (RO-14) are sanctioned from Establishment or Finance Division as per Rules of Business. DRAP has published the impugned DRAP Employees Services Regulation 2015 on which stance of Establishment is that M/o NHSR&C is to clarify/indicate the Authority under which DRAP Employees Services Regulations were issued without vetting by the Establishment Division. Anyway the then CEO, DRAP granted ante-date promotion to Mr. Asim Rauf from Deputy Director RO-13 to Additional Director RO-14 without customized courses as per impugned DRAP Employees Regulations 2015, on the will of Mst Saira Afzal Tarar (State Minister of that time) giving reference of FST Lahore interim orders dated 02.06.2016 ignoring the latest orders of FST, Lahore dated 03.04.2017, reproduced as under for ready reference:-

"the petitioner submits that the matter is pending in Islamabad high court. He as such requests that the instant case may be adjourned sine-die

*As per request the case is adjourned **sine-die**"*

Allegation-2: On this illegal promotion M/o NHSR&C sought advice from Establishment Division regarding this promotion without consideration/recommendation of the DPC or otherwise vide letter No.F.6-3/2015-DRAP/NHSR&C (Vol-III) dated 20th April 2018 and 30th May 2018. Reply of Establishment Division vide letter No.3/23/2016-R-II dated 31st July 2018's extract is reproduced as under: -

"It is stated that employees of DRAP are not civil servants within the meaning of Section 2(1)(b) of the Civil Servants Act 1973. Their terms and conditions are governed under DRAP (Employees Service Regulations, 2013). Section 9 of the Civil Servants Act 1973 provides that a civil servants possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules for departmental promotion in the service or cadre to which he belongs, Further, promotions are made with

immediate effect in prescribed manner on the recommendation of appropriate DPC/DSB and with the appointing Authority as the case may be, as it involves charge relinquishment of lower post and assumption of the higher post. However, cases of wrongful prevention for promotion are processed under proviso to rule 17(1) of Fundamental Rules.

Ministry of National Health Services, Regulation and Coordination is advised that the departmental Authority may examine and decide the matter independently in the light of law/rules/policy attracted in the case."

Allegation-3: But due to the pressure of Mst Saira Afzal Tarar (State Minister), the file was closed and officer continued to draw pay, perks and privileges of RO-14 to date. Later on Mr. Asim Rauf was appointed as Director PE&R, DRAP, Islamabad (on look after Charges) along with charge of Additional Director DRAP, Lahore on 3rd August 2018. He was again appointed as Director, QA< DRAP, Islamabad (on additional Charges) along with the charge of Additional Director DRAP, Lahore vide office order No. F.6-6/2011-ADMN-I (Vol-II) dated 07 December 2018 by the then CEO DRAP in violation to *Chapter II section 4 Composition of The Authority (1) The Authority shall consist of a full time Chief Executive officer (CEO) and thirteen Directors who shall be appointed by the Federal Government on the recommendation of Board.*

Later on M/o NHR&C issued office No. F.3-6/2012-(G&R)/DRAP(Part-IV) dated 7 March 2019 as following:-

"The competent Authority has been pleased to assign the work of the post of Chief executive officer (CEO), Drug regulatory Authority of Pakistan (DRAP), Islamabad on look after basis to Mr. Asim Rauf, Additional Director (RO-14), DRAP to dispose off day to day business with immediate effect and until further orders."

Allegation-4: Since that time Mr. Asim Rauf who was illegally promoted from RO-13 to RO 14 is enjoying the following posts at the same time.

- i. Additional Director (E&M), DRAP Lahore (office incharge Lahore).
- ii. Director (QA<), DRAP, Islamabad (Additional Charge).

- iii. CEO, DRAP, Islamabad (Look after basis to dispose off day to day business)

Here working of Mr. Asim Rauf is working like ghost that at the same time he is present at Lahore to work as DRAP, Lahore office Incharge and is present in Islamabad as a Director (QA<) & CEO DRAP Islamabad. 'No person who is the member of the Appellate Board shall be nominated to the Central Licensing Board or Registration Board' as per The Drugs (Licensing, Registration and Advertising) Rules 1976. Also as per section 11A of Drug Act 1976. **Conflict of Interest**, No person who is a member of the Appellate Board, Central Licensing board, a Provincial Quality Control Board, the Registration Board or a member of expert committee shall be a member of any other board or committee of which he is a member to avoid any conflict of interest. Interestingly Mr. Asim Rauf is the member of GMP inspection Panel, as an Additional Director (E&M) Lahore, who reports to Directorate of QA< and Central Licensing Board. He is also member of Central Licensing Board and Registration Board due to his additional charge of Director (QA<). He is also chairman of the Appellate Board due to his look after charge of CEO, DRAP. All of his posts are having conflict of interest. It is the best example of conflict of interest and illegal working.

Allegation-5: Mr. Asim Rauf is now most influential person of DRAP, who is making policies, decisions, amendments in impugned regulations to regularize his illegal promotion. He is creating hindrances in the promotion of his senior officers to avoid the notification of Authority as per section 4 of DRAP ACT, 2012 and in terms of directions issued by the Honourable Supreme court in its judgment dated 9th April 2015 in HRC No.752 of 2009 and 27484 of 20212 (Annex H). It is more interesting that M/o NHSR&C de-notified the nominations of expert members on 19th December 2019 (Annex I) but notification was later withdrawn on the request of Mr. Asim Rauf. Now he is going to get a second promotion from RO-14 to RO-15 in January 2020. He is the luckiest person who got his first promotion after two years of his services as public servant without customized courses as per impugned DRAP Employees Services regulation 2015, and now again he is trying to get his second promotion after two years of service in RO-14 with the help of giant medicine mafia.

7. Mr. Muhammad Rizwan Asghar, r/o Faisalabad leveled allegations vide complaint dated 12th February 2020 (Annex-I):

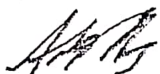
Allegation-6: With reference to my previously submitted letter dated 7th January 2020 regarding the subject cited above and about three illegal charges of Mr. Asim Rauf CEO DRAP having conflict of interest. I tried my level best with proofs in larger public interest to expose the black sheep in Drug Regulatory Authority of Pakistan in my letter mentioned above. It is stated with heavy heart and great sorrow that instead of initiating an inquiry or taking any legal action against Mr. Asim Rauf, he has been informed and given a change and time to secure himself and others who have misused their powers to ruin the Rules/ laws of Pakistan while working in DRAP. He misused his illegal powers and was going to promote himself by changing the impugned regulations to benefit himself intentionally, ignoring the Establishment Division Office memorandum D.O. No.4/11/2016-CP3-Vol dated 26 April 2016. Para 3 of this memorandum is reproduced as under:-

"DRAP Employees Services Regulations have been framed in pursuance of DRAP Act 2012. As per notification these regulations have been approved by the Federal Government whereas amendments in these regulations have been made with the approval of their policy board of DRAP, instead of Federal Government. Therefore, these amendments do not enjoy legal support. The DRAP may get amendments approved by the Federal Government."

Despite of this letter from establishment Division and previous illegal promotions, Mr. Asim Rauf was again going to be promoted on 20.02.2020 (Latter of CSB attached) but some officers of DRAP got stay from Honorable Islamabad High Court.

Allegation-7: Now as the matter has gone to the Apex Court, The CEO DRAP alongwith other officers are destroying the official record of DRAP regarding:-

- i. Illegal promotions in DRAP without Rules and MCMC courses
- ii. Illegal Hiring of blue eyed officers and consultant,
- iii. Matter related to civil servants in DRAP



- iv. Illegal Increase in Price of Drugs/medicines vide SRO.1610 (I)/2018 & SRO.9(I)/2020
- v. Illegal registrations etc.

Allegation-8: As a proof a video of official record destruction is attached herewith. You are requested to take appropriate actions and held an inquiry in the matter in larger public interest please. CEO, DRAP may be immediately stopped from working to avoid any further loss / destruction of Government record and DRAP record may be taken in safe custody in larger public interest please.

8. Mr. Haroon Yousaf, President, Pakistan Young Pharmacist Association, Lahore leveled allegations vide complaint dated 26th October 2019 (Annex-II):

Allegation-9: It is hereby submitted that three officers (Asim Rauf, Obaidullah and Fakharuddin Amir) of Drug Regulatory Authority of Pakistan were promoted from BS-18 to BS-19 without qualifying MCMC (Mid Career management Course). Wherein, no officer can be promoted from BS-18 to BS-19 without management course, order of FST attached.

On top of this illegality, Asim Rauf was given promotion from year 2009 without approval of competent authority and entire salaries and perks from 2009 were illegally given to Asim Rauf from tax payer's money.

Furthermore, Asim Rauf was given acting charge of Chief Executive Officer of Drug Regulatory Authority of Pakistan.

All the above illegalities were committed by high-ups by getting huge bribe from above three officers.

It is most humbly prayed that strict legal action may be started against above three officers alongwith all involved in these illegal promotions; all the illegally given salaries and perks may be recovered from above three officers. It is also prayed to demote above three officers to BS-18. It is further prayed to promote all officers of DRAP in future, who would qualify management courses. If merit were observed in DRAP, there would be no availability of substandard or spurious medicines in Pakistan.



9. Mr. Muhammad Rizwan Asghar, r/o Faisalabad leveled further allegations vide complaint dated 16th June 2020 (Annex-III):

Allegation-10: Promotion of Asim Rauf from RO-13 to RO-14 is illegal and against the DRAP Act, 2012 and DRAP Employees Service Regulations, 2015:

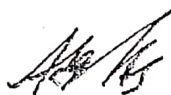
a). Promotion of Asim Rauf from RO-13 to RO-14 is illegal because he didn't complete mandatory customized courses as required under the DRAP Employees Service Regulations, 2015 (Copy of the said regulations is attached as Annex. A).

b). Establishment Division accordingly before conduction of DSB meeting for promotion replied to DRAP on 26.4.2016 that Asim Rauf is not eligible for promotion as he has not completed the mandatory customized courses required under the DRAP Employees Service Regulations, 2015 (Copy of the letter of Establishment Division is attached as Annex.B).

c). Promotion of senior most civil servants from BS-18 to BS-19 and BS-20 were not processed as they didn't complete customized courses. Accordingly, they objected the promotion of Asim Rauf and other junior officers. They have also complained that promotion of Asim Rauf and other junior officers have been made without sanctioned posts of Ro-14 and completion of 7 years' service in RO-13 cadre post as required by DRAP Employees Service Regulations, 2015 (Copies of the complaints of senior civil servants and their reminders in the mater are attached as Annex. C1 to C10).

d). Prime Minister of Pakistan Office objected the promotions of RO-14 to RO-15 due to non-conduction of customized courses similarly required as per DRAP Employees Service Regulations, 2015 (Copy of the objection letter of PM Office is attached as Annex. D).

e). Establishment Division regretted the proposal of promotion from RO-14 to RO-15 due to non-conduction of customized courses which are required as per DRAP Employees Service Regulations, 2015 and opined that once made part of regulations the customized training courses can't be exempted and the DRAP employees must have to complete these training courses before promotions (Copy of the Establishment Division U.O. letter to PM Office is attached as Annex. E).



f). Prime Minister of Pakistan accordingly agreed the view point of the Establishment Division that customized courses are mandatory before promotions and the PM therefore rejected the summary of promotion of RO-14 to RO-15 because of non-conduction of customized courses required as per DRAP Employees Service Regulations, 2015 (Copy of the PM Order for agreeing the view point of Establishment Division and rejecting the summary of promotions is attached as Annex. F)

g). Drug Regulatory Authority of Pakistan (Mr. Asim Rauf being its CEO) and Policy Board of DRAP (Mr. Asim Rauf being its Secretary) in their para-wise comments before the FST Islamabad in a Appeal No. 1646@CS/2018 declared that conduction of customized courses is mandatory for promotions in DRAP (Copy of the parawise comments of DRAP and Policy Board of DRAP are attached as Annex. G).

h). Accordingly, in the light of parawise comments of DRAP and Policy Board of DRAP that customized courses are mandatory before promotions under the DRAP Employees Service Regulations, 2015 the FST Islamabad in an Appeal No. 1646(R)CS/2018 ordered that conduction of customized course are mandatory for promotions in DRAP (Copy of the Order of the Tribunal is attached as Annex. H).

Conclusion: Promotion of Asim Rauf and others from Ro-13 to Ro-14 is illegal in the light of DRAP Employees Service Regulations, 2015 endorsed by the Establishment Division, Prime Minister of Pakistan, DRAP and Policy Board of DRAP in their parawise comments before FST Islamabad in Appeal No. 1646@CS/2018 and order of the FST Islamabad in the said Appeal No. 1646@CS/2018.

It doesn't require a lengthy investigation but is an established fact that the said promotion is 100% illegal and therefore required to be immediately withdrawn and recovery of public exchequer may be made from him and other illegal promotes.

Allegation-11: Ante date promotion of Asim Rauf from RO-13 to RO-14 DRAP from 7.9.2009 is illegal, against the Act and Regulations and huge financial corruption:

Mr. Asim Rauf joined Drug Control Organization of then Ministry of Health as Deputy Drugs Controller (DDC) BS-18 (civil servant) in June, 2002.

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In June, 2004 hardly after two years service in DCO he succeeded to get study leave with completion of the required formalities and went to USA on study leave for Ph. D. After 5 years study leave including more than one year as EOL without pay he joined his duty as DDC without submitting his Ph. D. degree in June 2009. It is clear that he spent his five years in private job and getting dollars instead of doing Ph. D.

DSB meeting for promotion from BS-18 to BS-19 was held in August 2009. Mr. Asim Rauf was not promoted because of incomplete service record. In the prevailing recruitment rules at the time of DSB meeting 7 years' experience in BS-18 was the prerequisite for promotion. 4 years as experience are counted for Ph. D as per rules. As he didn't submit his Ph. D degree. His experience was not 7 years.

He was also not promoted in two other DSB meetings held in December 2009 where in two senior officers Dr. Tanveer Alam and Dr. Akhtar Hussain were promoted.

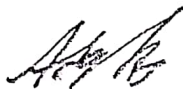
In 2014 DSB meeting senior DDC Dr. Tariq Saddique was promoted where as Mr. Asim Rauf and senior to him DDC Mr. Rehamatulla Baig were not promoted.

In June 2015 he opted to become employee of DRAP as per DRAP Act, 2012 and DRAP employees Service Regulations, 2015.

Section 15(5)(c) of DRAP Act says that civil servants of DCA who wanted to opt DRAP employment shall not be compensated because of such transfer i.e. no employee absorbed in an autonomous body (DRAP) can claim any benefit as was admissible to him as a civil servant (Copy of the relevant section of the DRAP Act, 2012 is attached as Annex. I)

Establishment Division vide its letter No. 15(5)/2011-MSW-IV dated 24th February, 2014 too has clarified that the employees absorbed in autonomous bodies shall not claim any benefit as civil servant (Copy of the Establishment Division letter is attached as Annex. J).

FST Islamabad's Judgment dated 24.04.2019 in an Appeal No. 1646@CS/2019 says that any order of the court including that of FST before promulgation of DRAP Act, 2012 has no value after the promulgation of the DRAP Act, 2012 which shall prevail (Copy of the Order of the FST Islamabad has been attached as Annex. H).



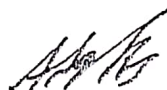
The DRAP and Policy Board of DRAP too in their parawise comments in the said Appeal (No. 1646@CS/2018 commented that order before DRAP Act can't be applied after the promulgation of DRAP Act and establishment of DRAP (Copy of the parawise comments of DRAP and Policy Board of DRAP has been attached as Annex. G).

Rehmatullah Bag senior to Asim Rauf requested the Islamabad High Court that as per seniority list issued in 2013 the petitioner is senior to Asim Rauf therefore he may be promoted with DRAP employees as per previous seniority list. DRAP in its parawise comments before IHC stated that in 2015 two cadres have been formed, one civil servant and second the DRAP employees. The petitioner has opted to remain civil servant so he can't be promoted with DRAP employees and the previous combined seniority list has become void. As the petitioner has opted for civil service he can't sit in two boats. DRAP further stated in Court that the said seniority is now a dead document and has only archive value (Copy of the parawise comments of DRAP in court is attached as Annex. K).

DRAP came into existence in 2012 and Mr. Asim. Rauf opted DRAP employment in June, 2015 so he can't be promoted as Regulatory Officer DRAP from 2009 when there was even no existence of DRAP and that when he opted DRAP employment he can't be promoted as civil servant in the light the above stated laws/facts.

The said ante date promotion is 100% illegal, against the DRAP Act, 2012, the Civil Servants Act, 1973, the DRAP Employees Service Regulations, 2015 and all other prevailing rules. The said illegal ante date promotion may be immediately withdrawn and the public exchequer drawn in the said illegal ante date promotion (a huge loss to the public exchequer) needs to be recovered from him.

Allegation-12: Holding charges of Additional Director DRAP Lahore, Director Quality Assurance DRAP and CEO DRAP simultaneously is conflict of interest under the Act:



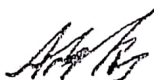
As per Section 11A of the Drugs Act, 1976 it is conflict of interest to be members of Licensing Board, Registration Board, Appellate Board or any expert committee simultaneously. Being Director QA he is member of Licensing Board, Registration Board, Medical Device Board and Health and OTC Committee and as CEO he is the Chairman Appellate Board which is conflict of interest. It is also against the rules. As per rules any acting charge or current charge is given to the senior most officer at the station eligible for promotion at that post. Mr. Asim Rauf's actual duty was/is in Lahore. He is not the senior most officer in BS-19 and he was even not eligible for the post of CEO DRAP even for the post of Director DRAP neither he completed the customized courses nor the seven years service in the cadre post of RO-13 so his additional charges as CEO DRAP and Director DRAP are against the rules. Also his charge as CEO DRAP is against section 5(6) of the DRAP Act, 2012.

Mr. Asim Rauf also works as Director Medical Devices/Chairman medical Devices Board and approves the minutes of the meetings of meetings of the Medical Device Board which is the function of the Chairman of the Medical Devices Board. He also has not left the charge of he post of Federal Inspector of drugs. He is thus five in one and conflict of interest under the Act. He has made the DRAP as SOS airline (video of SOS Airline is attached as Annex. L).

Establishment Division has already informed the Ministry that the Cabinet of Pakistan on 7.5.2019 in case No. 456/20/2019 has declared vacant posts shall be filled in three months as per prescribed manner and no additional charges shall be granted (Copy of the Establishment Division letter is attached as Annex. M).

Allegation-13: Destruction of record in the office of CEO DRAP:

There is a video clip of destruction of record in the office of CEO DARP where in PS of CEO too is seen involved in the destruction. Mr. Asim Rauf destroyed in his office the record of illegal appointment of Dr. Muhammad Aslam as CEO DRAP, illegal appointment of Sultan Ghani as Consultant in



the absence of prescribed terms and conditions of service on a huge amount rupees 11040000 per annum, other illegal appointments and illegal promotions in DRAP and illegal registration and illegal price increases of drugs and health products (Video of destruction of official record in CEO office is attached as Annex. N).

Prayer:

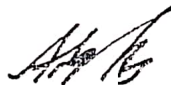
Mr. Asim Rauf is now the most influential person of DRAP. He has appointed the Directors against the DRAP ACT 2012. He has recommended the members of Policy Board of DRAP. He has appointed members of Boards and Committees on the basis of favoritism and nepotism. He is the main part of the mafia behind shortage of life-saving drugs. In the large public interest and as per vision of the PM he may be immediately removed from the post of CEO DRAP (Look after basis) and Director QA< for fair inquiry regarding his promotion and record destruction.

As his illegal promotions have already been established there is no need of inquiry as per rules, his illegal promotions be immediately withdrawn and the public money recovered.

Delay in action against him under the garb of inquiry is the best example of the quote that Justice delayed is Justice denied and causing a huge loss to the public by inability to take decisions as per law and in public interest being illegally promoted and being incompetent. His illegal promotion and appointment as CEO DRAP is also a reflection of the quote to destroy a country appoint illegal and incompetent persons as heads of institutions.

He also has managed to get millions of rupees illegal house building advance for himself and for those who have helped in his illegal ante date promotion.

It is therefore once again requested that his illegal promotions be immediately withdrawn and ill-gotten salaries and ill-gotten house building advance in millions of rupees be recovered from him



10. An undated application received on 13-07-2020 from the complainant Mr. Muhammad Rizwan Asghar alongwith more documents and deliberations (Annex-IV), in which he has mostly given an analysis, as per his assumption, on the allegations already levelled in his previous complaints.

Part-C

Facts and Deliberations

Facts on Allegation-1:

11. There are six main points in Allegation-1 and point to point facts are as under:

- i. Mr. Asim Rauf s/o Abdul Rauf was appointed to the post of Deputy Drug Controller (DDC)/Federal Inspector of Drugs (FID)/Assistant Director General (E&M) (BS-18) in the de-funct Ministry of Health vide Memorandum No. F.1-16/89-Admin-I, dated 13.04.2002 (**Annex-XVII**). However, his charge assumption notification could not be traced out. Mr. Asim Rauf proceeded on 90 days ex-Pakistan leave; nonetheless, he remained on ex-Pakistan leave for five years (proclaimed study leave) with effect from 22-06-2004 to 16-06-2009. He joined duty on 17-06-2009. Mr. Asim Rauf filed an MP.No.174/2015 in Civil Appeal No.1563(R)CS/2009 dated 30-06-2015 (**Annex-XVIII**) when he was not a civil servant in term of Section-2(1)(b) of Civil Servants Act, 1973. An interim reply/comments on behalf of M/o Health were submitted (**Annex-XIX**) describing therein that the case regarding notification of opting DRAP employment was under process. Mr. Asim Rauf **opted DRAP service with effect from 19-06-2015** as per DRAP's Notification No. F.2-26/2014-Admin-I(1) dated 19th April 2016 (**Annex-XX**).
- ii. This is fact that DRAP does not have Rules so far under Section 23 of DRAP Act, 2012.

iii. Further, sanction letter of posts of RO-12 to RO-15 in DRAP was sought from DRAP Administration. DRAP has provided letter No. 6-10/2016-Admn-I dated 27-04-2018 (**Annex-XXI**) for creation of 228 permanent posts in DRAP, with approval of Policy Board, with effect from 26-11-2014 & 02-08-2016.

iv. DRAP Employees Service Regulations-2015 were notified vide SRO 49(KE)/2015, dated 21-04-2015 with the previous approval of the Federal Government (**Annex-XIII**). Subsequently, DRAP Employees Service Regulations-2015 (first amendment) notified vide S.R.O 49(KE)/2015, dated 10.09.2015 (**Annex-XIV**), were thereby amended as under:

a) *"In the preamble, the words **"Federal Government"**, the words **"Policy Board"** shall be substituted and shall be deemed always to have been so substituted"*:

However, copy of the approval of the Federal Government (i.e. the Cabinet) could not be traced out.

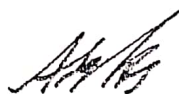
v. Mr. Asim Rauf, Deputy Director (RO-13), Dr. Muhammad Fakharuddin Aamir, Deputy Director (RO-13) and Dr. Obaidullah, Deputy Director (RO-13) were promoted to the post of Additional Director (RO-14) with immediate effect as per Ministry's letter No. F.6-3/2015-Admn-II/DRAP dated 17-05-2017 and DRAP's Notification dated 17-05-2017 (**Annex-XXII**). Subsequently, Mr. Asim Rauf, Additional Director (RO-14) was granted ante-dated promotion with effect from 07-09-2009 (*when his juniors were promoted*), outwardly with the approval of CEO-DRAP, according to the DRAP's Notification dated 21-02-2018 (**Annex-XXIII**).

vi. It is fact that:

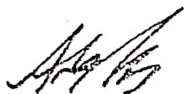
b) Ante-dated promotion was granted to Mr. Asim Rauf in compliance of FST Islamabad Order dated 28-07-2010 in Appeal No. 1563(R)CS/2009 (**Annex-XXIV**) and FST Lahore Order dated 02-06-2016 (**Annex-XXV**) in M.P. No. 174/2015

in Appeal No. 1563(R)CS/2009 titled Asim Rauf Vs M/o Health. However, FST, Lahore Order dated 03-04-2017 in M.P. No. 174/2015 in Appeal No. 1563(R)CS/2009 (Annex-XXVI) was not quoted wherein the case was kept in abeyance on the request of the appellant (*the case was adjourned sine-die*). The appellant's plea was that his matter (*of similar nature*) was pending in Islamabad High Court. Afterward, the appellant has not agitated the same case in FST, Lahore so far.

- c) Mr. Asim Rauf was not entitled to invoke the jurisdiction of the FST being employee of an autonomous body established under Act of the Parliament. He was not a civil servant in term of Section-2(1)(b) of Civil Servants Act, 1973 as on 30-06-2015 when he filed an MP.No.174/2015 in FST, Lahore.
- d) As per DRAP's Notification No.2-26/2014-Admn-I(I) dated 21-02-2018. (Annex-XXIII), Mr. Asim Rauf, Additional Director, DRAP was granted ante-dated promotion with effect from 07-09-2009 when his juniors were promoted. Consequently, the M/o NHSR&C raised observations vide its letter dated 27-02-2018 (Annex-XXVII) on the ante-dated promotion as it was allowed without holding DSB/DPC and confirmation of availability of the BS-19 post in Drugs Control Organization for the such period as well as restoration of seniority in his cadre/service.
- e) DRAP replied vide letter dated 03-04-2018 (Annex-XXVIII) describing therein that ante-dated promotion was granted in compliance of FST Orders dated 28-07-2010 and 02-06-2016 as well as on the directions of M/o NHSR&C vide letter dated 09-01-2018 (Annex-XXIX). It was further explained that the officer had already promoted to the higher post on the recommendations of respective DSB; hence, meeting of DPC again in this regard was not required.



- f) It is fact that there was no direction of M/o NHSR&C vide letter dated 09-01-2018 (Annex-XXIX) to grant ante-dated promotion. Hence, CEO-DRAP was requested to consider the case of ante-dated promotion of the officer, at their own level.
- g) It is surprising that the promotion was recommended by inter-ministerial DSB, approved and notified by the M/o NHSR&C with approval of the Secretary being appointing authority whereas ante-dated promotion was granted and notified by DRAP with approval of CEO-DRAP at his own.
- h) Resulted, the case was referred to Establishment Division vide M/o NHSR&C's OM dated 20-04-2018 (**Annex-XXX**) for advice on ante-dated promotion without holding DPC and confirmation of vacancy. On inquiry of the Establishment Division vide its letter dated 28-05-2018 (**Annex-XXXI**), M/o NHSR&C rightly explained vide letter dated 30-05-2018 (**Annex-XXXII**) that Mr. Asim Rauf exercised option for Regulatory Officer Scale (RO Scale) in June 2015 under Section-15(5) of DRAP Act-2012.
- i) Establishment Division vide OM dated 31-07-2018 (**Annex-XXXIII**) explained that the employees of DRAP are not civil servants within the meaning of Section 2(1)(b) of the Civil Servants Act, 1973. Further, promotions are made with immediate effect in the prescribed manner on the recommendations of appropriate DPC/DSB and with the approval of appointing authority, as it involves charge relinquishment of lower post and assumption of the higher post. That Division advised to examine and decide the matter independently in the light of law/rules/policy attracted in the case.



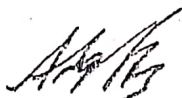
j) However, the case neither was reconsidered nor has so far been reviewed as per advice of Establishment Division because the officer exercised option of Regulatory employment and he was no more enjoying the status of civil servant and ante-dated promotion under proviso of Fundamental Rules 17(1) issued by Finance Division (extract of FR & SR Vol-I is at **Annex-XXXIV**) is only granted to the civil servants.

k) It is pertinent to mention here that Finance Division issued Office Memorandum No. 4(6)Imp/FR-17/2013-277 dated 18-09-2015 (**Annex-XXXV**) describing therein revised Establishment Division's Guidelines for the FR-17(1) committees to consider the cases of proforma promotion. As per para-4(iii) of the Guidelines thereof, "the Junior Level Committee on FR-17(1) headed by Joint Secretary (Regs) Finance Division shall continue to consider/recommend cases in respect of civil servants in BS-19 and below."

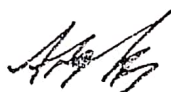
l) As per para-5 of the Guidelines issued by Finance Division dated 18-09-2015 (**Annex-XXXV**), the cases of proforma/ante-dated promotion are required to be first considered by the respective DPC/DSB before consideration by the Junior Level Committee on FR-17(1) of Finance Division which was not done in the case in question because DRAP replied vide letter dated 03-04-2018 describing therein that ante-dated promotion was granted in compliance of FST Orders dated 28-07-2010 and 02-06-2016-as-well as on the directions of M/o NHR&C vide letter dated 09-01-2018 and further explained that meeting of DPC was not required.

Deliberations on Allegation-1:

12. Deliberations on the above facts are as under:

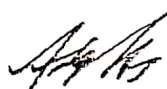


- i. In pursuance of Section-15(5)(a) of DRAP Act-2012 (Annex-XII), Mr. Asim Rauf, opted DRAP service with effect from 19-06-2015 as per the DRAP's Notification No. F.2-26/2014-Admn-I(1) dated 19th April 2016 (Annex-XX) though it was required to be exercised within thirty days from the date of commencement of the Act.
- ii. DRAP's letter dated 27-04-2018 (Annex-XXI) was issued for creation of 228 permanent posts in DRAP, with approval of Policy Board, with effect from 26-11-2014 & 02-08-2016. However, it needs further investigation with apprehensions upon existence of RO Scale posts before exercising option for DRAP service by its employees. The authoritative point is that, as per DRAP's Notification dated 19-04-2016 (Annex-XX); all civil servants who exercised their irreversible option became employees of DRAP with effect from 19-06-2015.
- iii. Surprisingly, DRAP created posts including CEO (MP-I) and Directors (RO-15) which are not the posts under purview of the Authority. These posts are already mentioned in the Act and for which appointing authority is Federal Government (*i.e. Federal Cabinet*) as per Section-4(1) of DARP Act, 2012 (Annex-XII). Therefore, any creation/deletion of post, making terms and conditions as well as status of pay scale are required the approval of the Federal Government.
- iv. Moreover, as per Finance Division's OM No. F.7(1)Exp-IV/2016-510 dated 29-07-2016 and OM No. 7(1)Exp.IV/2016-540 dated 26-07-2017 (**Annex-XXXVI**), there was ban on creation of new posts except those required for development projects and approved by the competent authority. DRAP did not obtain exemption or concurrence of Finance Division. Therefore, creation of posts in DRAP vide its letter dated 27-04-2018 was sheer violation of the competent forum i.e. Finance Division for



the purpose. Hence, DRAP's letter dated 27-04-2018 (Annex-XXI) is ostensibly illegal and void.

- v. DRAP does not have Rules for CEO and Directors as well as its employees, consultants and experts in pursuance of Section-4, Section-7(l)&(m) and Section-14(1) read with Section-23 of DRAP Act, 2012 for carrying out its purposes.
- vi. DRAP Employees Service Regulations-2015 notified vide SRO 49(KE)/2015, dated 21-04-2015 (Annex-XIII) and subsequently amended (first amendment) vide S.R.O of same number dated 10-09-2015 (Annex-XIV) have neither approval of the Federal Government, as mentioned thereof, nor concurrence of Establishment Division or/and Finance Division. Therefore, DRAP Employees Service Regulations-2015 is a questionable topic whether it has been concurred by the competent forum because Establishment Division has repeatedly asked to frame such regulations in consultation with that Division.
- vii. Establishment Division in its OM dated 16-11-2018 requested M/o NHSR&C to clarify/indicate the authority under which the DRAP Employees Service Regulations were issued without vetting by the Establishment Division (**Annex-XXXVII**).
- viii. DRAP Employees Service Regulations-2015 and amendments therein as mentioned in para-5(ii) to (v) above have been published without concurrence of Establishment Division and Finance Division.
- ix. Furthermore, issuance and publication of DRAP Employees Service Regulations-2015 is a cunning and deceitful act of DRAP Management as these Regulations are entirely different from those concurred by Establishment Division vide OM No. 4/4/2013-R-III dated 04-03-2013 (**Annex-XXXVII-A**) under name of "DRAP Employees Service Regulations-2013".



- x. Establishment Division vide para-3 of OM No. 4/16/2013-CP-3 dated 23-10-2013 (Annex-XXXVIII) directed that ***"Since Drug Regulatory Authority of Pakistan (DRAP) is an autonomous body, its independent recruitments procedures/regulations may be framed in consultation with Establishment Division and Finance Division"***.
- xi. Mr. Asim Rauf, Additional Director (RO-14), DRAP was granted ante-dated promoted with effect from 07-09-2009 DRAP's Notification dated 21-02-2018 (Annex-XXIII). Nonetheless, it is not mentioned from which (lower) post to which (higher) post, he was granted ante-dated promotion. It is noticeable that Mr. Asim Rauf was not Deputy Director before joining DRAP service. In point of fact, he was appointed to the post of Deputy Drug Controller (DDC)/Federal Inspector of Drugs (FID)/Assistant Director General (E&M) (BS-18).
- xii. It is pertinent to mention here that as per Establishment Division's letter No. 15(5)2011-MSW-IV dated 24-02-2014 (Annex-XXXIX), permanent absorption of the employees of the devolved Ministries/Divisions in the autonomous bodies has been allowed subject to:
- a. Acceptance of these employees by the Borrowing Organizations i.e. Autonomous Bodies;
 - b. Willingness of the employees to sever all connections as Civil Servants;
 - c. **Undertaking on oath by the employee that not to claim any benefits in the future as admissible to a Civil Servant.**
- xiii. If Asim Rauf and two others, as mentioned in para-11(v) above, were Deputy Director (RO-13) then they were, *prima facie*, the employees of DRAP and as per Schedule-II, S. No. 2, of DRAP



Employees Service Regulations-2015 (*seemingly approved by the Federal Government*), the criteria of promotion is that:

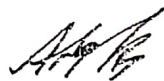
- a. The post of Additional Director (RO-14), DRAP is required to be filled by civil servant quota and DRAP employees with 50% as promotion and 50 % for fresh direct recruitment;
 - b. 12 years' service in BPS-17 and above **or 7 years' service in BPS-18 and above for initial recruits in BPS-18;**
 - c. DRAP officers would have to complete customized courses as approved by the Policy Board (for DRAP employees) applicable from 1st July, 2015 (w.e.f. 1st January 2016 as amended vide SRO dated 10-09-2015).
- xiv. The above three conditions for promotion were apparently not considered and discussed in detail by the DSB in its meeting held on 14-06-2016 as per minutes of DSB (**Annex-XL**).
- xv. FST, Islamabad in its Judgment dated 28-07-2010 (Annex-XXIV) and FST Lahore in its Judgment dated 02-06-2016 (Annex-XXV) did not bar DPC to consider eligibility criteria, rules, regulations applicable thereof.
- xvi. The Promotion of officers of DRAP recommended by DSB in its meeting held on 14-06-2016 (Annex-XL) created concerns, in the absence of Recruitment and Promotion Rules, to be framed with approval of the competent forum, in pursuance of Section-23 read with Section-4(2), Section-7(l)&(m) and Section-14(1) of the DRAP Act-2012;
- xvii. Length of service required for promotion is 7 years. Mr. Asim Rauf was promoted from Deputy Director (RO-13) to the post of Additional Director (RO-14) with immediate effect as per DRAP's Notification dated 17-05-2017 (Annex-XXII). He joined DRAP service as Deputy Director (RO-13 *equivalent to BPS-18*) with



effect from 19-06-2015 as per DRAP's Notification dated 19-04-2016 (Annex-XX). There is no rule or regulation available in DRAP through which his previous service being civil servant could be counted for promotion in pursuance of Section-15(5)(b)&(c) of DRAP Act-2012 (Annex-XII).

xviii. Mr. Asim Rauf, Deputy Director, DRAP as well as two others, as mentioned in para-11(v) above, did not complete requisite mandatory customized course as per Schedule-II, S. No. 2, of DRAP Employees Service Regulations-2015 dated 21-04-2015 (Annex-XIII).

xix. In a similar case, a meeting of Departmental Selection Board (DSB) was held on 09-06-2016 to consider promotion of DRAP Officers in RO-14 for promotion to the posts of Director (RO-15) in DRAP and recommended two officers for promotion in RO-15 (Annex-XLI). Subsequently, Summary for the Prime Minister dated 16-09-2016 was submitted (Annex-XLII) and the Prime Minister's Office raised observation that "the Ministry has not certified that the officers proposed to be promoted fulfill the criteria provided in the DRAP Employees Service Regulations, 2015 for promotion at this stage." It is pertinent to mention that Secretary, M/o NHR&C explained in para-13 of the Summary that as per Drug Regulatory Authority of Pakistan (DRAP) Employees Service Regulations-2015, Senior Management Course (SMC) is mandatory for promotion of BS-19 officers of DRAP who opted for Civil Service under Section-15(5) of DRAP Act, 2012. Similarly, customized courses/training is mandatory for the Regulatory Officer (RO-14/BS-19), DRAP for promotion in (RO-15/BS-20). It was further clarified that condition of customized courses was first applicable from 1st July 2015, however, Policy Board of DRAP had approved amendment wherein the customized courses would be applicable from 1st January 2018.



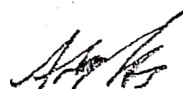
xx. Nevertheless, Prime Minister rejected this plea and was pleased to agree with the stance of Establishment Division that is described in para-16(ii) of the above cited Summary (Annex-XLII), wherein the Secretary, Establishment Division extended his views/comments as under:

"Ministry of National Health Services, Regulations & Coordination has clearly spelled out the regulations authority for promotion from Additional Director (RO-14) to Director (RO-15) would have to complete customized courses as approved by the Policy Board applicable from 1st July, 2015. Once, this condition has been made part of the rules, it is difficult to create exception. Secondly, the decision of the Policy Board to extend this limit up to 1st July, 2018 has not been actualized yet, it would have been better that meeting of the Selection Board may not have been convened. It would be better that no exception may be created through extending deadlines and fulfil rules requirement for promotion. The M/o NHS,R&C may be asked to immediately design these courses."

xxi. The Prime Minister approved the views of Establishment Division wherein it was mentioned that no exception might be created through extending deadlines of customized courses and further asked to immediately design these courses.

xxii. Surprisingly, instead of designing customized courses for its employees, even after approval of the Prime Minister, DRAP ventured to abolish the condition of customized courses utterly by amending DRAP Employees Service Regulations-2015 (Third Amendments; Schedule-II, S. No.2) dated 15-01-2020 (Annex-XVI). This act of DRAP is against the approval of Prime Minister as well as is *ultra vires* with policy of the Government of Pakistan.

xxiii. When a similar promotion case was rejected by the Prime Minister on similar grounds, how can another case be approved without completing customized course. The condition of eligibility



for promotion has not so far been completed in respect of both the cases.

xxiv. Therefore, DRAP's Notification dated 17-05-2017 (Annex-XXII) wherein Mr. Asim Rauf and two other DRAP employees, were promoted from Deputy Director (RO-13) to the post of Additional Director (RO-14) is illegal and tantamount to misconduct.

xxv. Effectiveness of the condition of customized courses was recurrently changed, even after approval of the Prime Minister, which shows *mala fide* intention of the DRAP Management to avoid mandatory courses and to achieve person specified goals. Detail of repeatedly changing deadline of courses is as under:

DRAP Employees Service Regs-2015 issuance/amendment date (Schedule-II, S. No. 2)	Date of effectiveness of customized courses
21-04-2015 (Annex-XIII)	1 st July 2015
10-09-2015 (Annex-XIV)	1 st January 2016
23-06-2017 (Annex-XV)	1 st January 2018
15-01-2020 (Annex-XVI)	Condition of customized courses was abolished

xxvi. **Above all**, FST, Islamabad in its Judgment dated 25-04-2019 in Appeal No.1646(R)/2018 with MP titled Dr. Noor Muhammad Shah versus FOP/Secretary, M/o NHSR&C etc. (Annex-XLIII) declared that, **"...as per SRO, issued (by DRAP) vide notification dated 23rd June, 2017 (Annex-XV) the appellant is bound to complete customized training for promotion to the higher post"**.

xxvii. The Petitioner filed CPLA in the Supreme Court of Pakistan CPLA No. 2325 of 2020 and CMA No. 407 of 2020 against the FST judgment which was dismissed on account of withdrawal of the application vide Apex Court's judgment dated 03-03-2020 (Annex-XLIV). Therefore, the **FST's Judgment** dated 25-04-2019

has attained finality and authoritativeness. Thus, promotion of Mr. Asim Rauf from Deputy Director (RO-13) to Additional Director (RO-14), without completing customized course, seems null and void.

xxviii. FST, Lahore in its Order dated 03-04-2017 (Annex-XXVI) in M.P. No 174/2015 in Appeal No. 1563(R)CS/2009 Asim Rauf Vs M/o Health recorded; *"The petitioner submits that the matter is pending before Islamabad High Court (IHC). He as such requests that instant case be adjourned sine-die"*

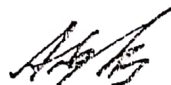
"As per request the case is adjourned sine-die."

xxix. It means all actions required to be carried out in pursuance of the above case, M.P. No 174/2015 in Appeal No. 1563(R)CS/2009 Asim Rauf Vs M/o Health, must have been kept in abeyance.

xxx. The orders issued by FST, Lahore were *prima facie* not applicable and binding unless the court case is concluded with clear directions. The matter of jurisdiction of FST is also un-resolved. Therefore, the promotion of Mr. Asim Rauf, being *sub-judice*, seems to be illegal.

xxxi. As per Office Order No. F.3-6/2012 (G&R) (Pt. III) dated 02-02-2018 (Annex-XLV), Sheikh Akhtar Hussain, Additional Director (RO-14), DRAP was assigned look after charge of the post of CEO-DRAP with effect from 02-02-2018. Therefore, CEO-DRAP was not competent forum to accord ante-dated promotion by giving the benefits of his service worked as civil servant in other department for which CEO has no powers *sua sponte* to exercise.

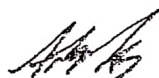
xxxii. Nonetheless, CEO-DRAP, working on look after basis to dispose off the day to day business, did not have powers to decide any policy, administrative and financial decision keeping in view the Honourable Islamabad High Court's Judgment heard on 19-08-2020 and 03-09-2020, announced on 17-09-2020 (Annex-XLVI)



in WP No. 882 of 2020 titled Dr. Sheikh Akhtar Hussain versus FOP and others, the Single Bench observed in operative para-30 thereof, ".....Establishment Division on the subject of "exercise of administrative/financial powers while holding look after charge," it was explained that the look after charge had not been defined in the A.P.T. Rules and that it is a temporary stopgap arrangement to cater for the day to day affairs of the organization on honorary basis. It was also explained that the officers entrusted with look after charge are not empowered to take policy decisions. It was also clarified that regarding a decision-making process, there are certain orders which are of quasi-judicial nature and cannot be taken by an officer not formally designated to exercise those powers. Likewise, it was clarified that certain financial and administrative powers can only be exercised by the competent authority and an officer looking after the work cannot exercise such powers as he has not been delegated with such powers by the competent authority." Further in conclusive para-32 said, ".....I deem it appropriate to observe that the officer who has been assigned the work of the C.E.O. of D.R.A.P. on "look after basis" through notification dated 07.03.2019 cannot exercise powers or perform functions beyond the parameters laid down in the Establishment Division's O.M. No.8/3/2020-R-3 dated 20.03.2020."

xxxiii. As per para-5 of Guidelines issued by Finance Division vide OM No. 4(6)Imp/FR-17/2013-277 dated 18-09-2015 (Annex-XXXV), proforma/ante-dated promotion is granted only to the civil servants. It does not applicable upon non-civil servants unless properly adopted by an organization.

xxxiv. Hypothetically, if the case of ante-dated promotion was submitted to Departmental Promotion Committee (DPC) of M/o NHSR&C (not DRAP's one), it would have been considered in light of **Civil Servants (Appointment, Promotion and Transfer), Rules** (hereinafter referred as Recruitment and Promotion Rules-2007)



of Drugs Control Organizations under Ministry of Health notified vide SRO.331(I)/2007 dated 18-04-2007 (**Annex-XLVII**).

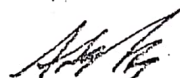
xxxv. Condition for promotion under S. No. 2 of Rule-3 of Recruitment and Promotion Rules-2007 (**Annex-XXVII**), the criteria for promotion of Deputy Drugs Controller/Federal Inspector of Drugs (BS-18) to the post of Deputy Director General (BS-19) is **7 years' experience in BS-18** in the relevant field.

xxxvi. The experience has been defined in Rule-4(i)&(ii) of Recruitment and Promotion Rules-2007 (**Annex-XLVII**) which is reproduced as under;

- (i) *"Experience" means, experience gained in a regular full-time paid job after obtaining the required qualification;*
- (ii) *The period spent by a candidate in obtaining degree of M. Phil. Or Ph. D. in the relevant field shall be treated as practical experience up to a maximum period of two and four years respectively for the purpose of initial appointment.*

xxxvii. Mr. Asim Rauf, Deputy Drugs Controller submitted application dated 07-05-2004 (**Annex-XLVIII**) for 365 days ex-Pakistan leave to go for higher studies (not mentioned any specific degree). Nonetheless, he was granted 90 days ex-Pakistan leave on full pay with effect from 22-06-2004 as per Notification No. PF. 1700-AR/Admn-I dated 22-06-2004 alongwith No Objection Certificate to proceed to abroad (**Annex-XLIX**). Apparently, 90 days leave was not study leave;

xxxviii. After five years gap, as per Notification No. PF. 1700-AR-ADMN-I dated 11-07-2009 (**Annex-L**), Mr. Asim Rauf was granted ex-Pakistan leave as under:

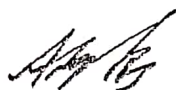


- a) **90 days** leave with full pay from 22-06-2004 to 19-09-2004;
- b) **1460 days** leave on half pay from 20-09-2004 to 19-09-2008;
- c) **270 days** Extra-ordinary Leave (without pay) from 20-09-2008 to 16-06-2009.

xxxix. As per official record available, it could not be transpired that Mr. Asim Rauf was on study leave. Focal Person, DRAP as well as the concerned Admn. Section, M/o NHSR&C were requested vide letters dated 15-09-2020 and 25-09-2020 (**Annex-LI**) requesting therein to provide evidence whether the officer requested to extend ex-Pakistan leave and what was the decision of competent authority.

xl. Furthermore, if he was on study leave (*Ph. D. program as described in para-wise comments submitted to the court of law-Annex-LI-A*), the copy of the degree was sought which could not be provided by DRAP. Concerned Section of the Ministry was also requested to provide the same vide U.O. Note dated 25-09-2020 and that Section informed vide letter dated 25-09-2020 (**Annex-LII**) that the requisite documents/record is not available within the Ministry.

xli. After availing 5 years ex-Pakistan leave, Mr. Asim Rauf assumed charge of the post of Deputy Drugs Controller (DDC) (BS-18) on 17.06.2009. However, it is pointed out that the Officer was granted leave after completion of five years. Initial leave application of the officer and Notification No. PF. 1700-AR/Admn-I dated 22-06-2004 (**Annex-XLIX**) granting 90 days ex-Pakistan and No Objection Certificate to allow him for proceeding study leave abroad does not prove his leave as Study Leave. Furthermore, he has never submitted Ph. D. Degree to prove his leave as study leave.



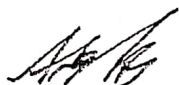
- xlii. Moreover, eligibility criteria, in respect of his length of service under Rule-4(i) & (ii) of Recruitment and Promotion Rules-2007 (Annex-XXVII) is questionable towards granting him ante-dated promotion.
- xliii. Mr. Asim Rauf, DDC (BS-18) was a Civil Servant with effect from 13-04-2002 to 18-06-2015. Thereafter, he is an employee of DRAP, an autonomous body established under Act of the Parliament, with effect from 19-06-2015 to-date, as per DRAP's Notification dated 19th April 2016.
- xliv. Nevertheless, his case was obligatory to be discussed first in DPC and after approval of competent authority, it was required to be submitted to Junior Level Committee on FR-17(1) of Finance Division which was not done but was denied by DRAP vide letter dated 03-04-2018 (Annex-XXVIII).
- xlv. Furthermore, he had no right to claim any benefit of his previous service as civil servant in pursuance of Establishment Division's letter No. 15(5)2011-MSW-IV dated 24-02-2014 (Annex-XXXIX);
- xlvi. Therefore, antedated promotion granted to Mr. Asim Rauf, Additional Director (RO-14), DRAP seems unlawful having no prudence and legitimacy.

Facts on Allegation-2:


13. Detailed facts on this allegation have already been described in para-11(vi) above.

Facts on Allegation-3:

14. The factual position on third allegation is as under:



- i. As per DRAP's Office Order dated 03-08-2018 (**Annex-LIII**), Mr. Ghulam Rasool Dutani, Director (BS-19), DRAP, Islamabad was assigned charge of Director (Admn, HR & Log) and Mr. Asim Rauf, Additional Director (RO-14), Lahore was assigned the charge of the post of Director (Pharmaceutical Evaluation & Registration) during the leave period of Dr. Obaidullah, who was holding two positions i.e. Director (PE&R) and Director (Admn, HR & Log) without mentioning the duration of leave.
- ii. As per DRAP's Office Order dated 07-12-2018 (**Annex-LIV**), six Additional Directors of DRAP were transferred and posted. In fact, they were assigned charge of the posts of Directors. Interestingly, Mr. Asim Rauf, Additional Director, (RO-14), Lahore who had already been assigned charge of the post of Director (PE&R) was transferred to his originated and substantial post at Lahore and he was further assigned additional charge of the post of Director (Pharmacy Services) on look after basis for a period of three months. The Office Order dated 07-12-2018 was an interesting order in its nature. This Office Order was issued with the approval of CEO, DRAP in exercise of powers conferred under Regulation-5 Chapter-2 of the DRAP Employees Service Regulations-2015.
- iii. Actually, Regulation-3(5) of DRAP Employees Service Regulations-2015 dated 21st April 2015 (**Annex-XIII**) was applicable as mentioned in above para-14(ii). As per Regulation-3(5), *"An appointment to a post may be made in emergent cases on current or additional charge basis, if the CEO is satisfied that the employee can perform efficiently, for a period of three months. If the said period is to be extended for another period of three months then approval from the Policy Board shall be taken"*.

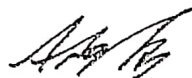


- iv. As per Office Order dated 07-03-2019 issued by M/o NHSR&C (Annex-LV), Mr. Asim Rauf, Additional Director (RO-14) was assigned the work of the post of Chief Executive Officer, DRAP on look after basis to dispose of the day to day business with immediate effect until further orders.

Deliberations on Allegation-3:

15. Here are deliberations on the allegation-3:

- i. It is pertinent to mention here that Section-4(1) of DRAP Act 2012 (Annex-XII) clearly says that CEO and thirteen Directors shall be appointed by the Federal Government on the recommendation of Board, whose qualifications, terms and conditions shall be such as may be prescribed.
- ii. Regulation-3(5) of DRAP Employees Service Regulations-2015 dated 21st April 2015 (Annex-XIII) seems to be absolutely inconsistency with Section-4(1) of DRAP Act 2012 (Annex-XII). Astonishingly, through Regulations, this power has been delegated to CEO, DRAP without approval of the Federal Government or changing through legislation.
- iii. This illegal practice is still persistent and charge of the posts of Director, DRAP has been assigned many time in recent past, DRAP in palpable violation of Section-4(1) of DRAP Act, 2012. For example, Secretary, M/o NHSR&C assigned charge of the posts of Director to Additional Directors (RO-14/BS-19) on look after basis for a period of three months vide its letter No. 6-29/2018-DRAP dated 25-11-2019 and DRAP's Office Order No. 6-6/2011-ADMN-I(Vol-III) dated 27-11-2019 (Annex-LVI). Similarly, CEO-DRAP assigned look after charge of the posts of Director on look after basis for three months vide Office Orders No. 6-6/2011-Admn-1 (Vol-III) dated 31-03-2020 and 29-07-2020 (Annex-LVII) respectively assigning look after charge of the posts of Director,

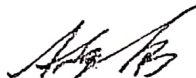


DRAP to incumbents of the posts of Additional Director (RO-14/BS-19).

- iv. DRAP has failed to prescribe rules describing therein qualification, terms and conditions, criteria etc. in pursuance of Section-23 read with Section-4(2), Section-7(l)&(m) and Section-14(1) of DRAP Act, 2012 (Annex-XII).
- v. DRAP Employees Service Regulations, 2015 and amendments thereafter have not been concurred by Establishment Division as well as Finance Division as directed by Establishment Division vide para-3 of OM No. 4/16/2013-CP-3 dated 23-10-2013 (Annex-XXXVIII).
- vi. Furthermore, Mr. Asim Rauf, Additional Director (RO-14) was assigned the work of the post of Chief Executive Officer, DRAP on look after basis to dispose off the day to day business with immediate effect until further orders as per Office Order dated 07-03-2019 (Annex-LV). However, approval of Federal Government (i.e. the Cabinet) was not solicited which was violation and *contra legem* of Section-5(6) of DRAP Act, 2012 (Annex-XII) which speaks that, ***"In case of occurrence of vacancy of CEO the Federal Government is authorised to appoint any person having prescribed qualification as CEO for a period of three months or till the appointment of CEO, whichever is earlier"***.

Facts on Allegation-4:

- 16. The existent position on the fourth allegation is as under:
 - i. It is fact that Mr. Asim Rauf, Additional Director, DRAP has been assigned charge of the post of CEO-DRAP on look after basis to dispose off day to day business with effect from 07-03-2019 till



further order having been contradiction with the provision of Section-5(6) of DRAP Act-2012.

- ii. He has also been mostly assigned current charge of the post of Director during last more than one year which is clear violation of Section 4(1) of DRAP Act-2012. As per DRAP's Office Order No. F.6-6/2011-ADMN-I(Vol-III) dated 31-03-2020 (**Annex-LVIII**), Mr. Asim Rauf, Additional Director (RO-14) was assigned charge of the post of Director (QA<), DRAP on look after basis for a period of three months with effect from 31-03-2020.
- iii. Accordingly, as per Rule-8(1)(b) and Rule-24(1)(d) of Drugs (Licensing, Registering and Advertising) Rules-1976 (**Annex-LIX**) as amended vide SRO 684(I)2013 dated 29-07-2013, he or his representative is the member of Central Licensing Board as well member of Registration Board.
- iv. Appellate Board: As per Rule-2(1)(a) of Drugs (Appellate Board) Rules-1976 (**Annex-LX**), duly approved by the Federal Government, "**Chief Executive Officer of the Drug Regulatory Authority of Pakistan, who shall be ex-officio Chairman,**".
- v. As per Section-9(1) of the Drugs Act-1976 (**Annex-LXI**), "*the Federal Government shall, in accordance with the rules, constitute an Appellate Board for the disposal of appeals preferred by persons aggrieved by any decision of the Central Licensing Board or the Registration Board or the Licensing Authority or a Board or Authority to which the powers of the Federal Government under section 12 have been delegated under subsection (3) of that section and for revision of any such decision on its own motion. Page 10 of 32 (2) The Appellate Board shall consist of such representatives of the Federal Governments and the Provincial Governments, including a Chairman, as the Federal Government may from time to time appoint. (3) Subject to sub-section (4), the Chairman and other members of the Appellate Board shall hold office for the prescribed period.*"

- vi. Section-11A of the Drugs Act-1976 (Annex-LXI) speaks about Conflict of interest; *"No person who is a member of the Appellate Board, Central Licensing Board, a Provincial Quality Board, the Registration Board or a member of Expert Committee shall be a member of the any other board or committee of which he is a member to avoid any conflict of interest."*

Deliberations on Allegation-4:

17. Here are deliberations and discussion on allegation-4:
- i. As per Section 9(1) of the Drugs Act-1976 (Annex-LXI), Federal Government is empowered to set up Appellate Board. Whereas, Section-12(1) of DRAP Act-2012 (Annex-XII) empowers Policy Board to constitute Appellate Board and Committees of experts. Consequently, as per Section-12(2) thereof, Appellate Board and Committees constituted under sub-section (1) shall act in accordance with the regulations made by the DRAP Policy Board.
 - ii. Drugs (Appellate Board) Rules-1976 have been framed with approval of the Federal Government in exercise of powers conferred by Section-43 of the Drugs Act-1976 (Annex-LXI).
 - iii. Section-32(2) of DRAP Act-2012 (Annex-XII) provides that, *"In case of inconsistency between the provisions of this Act and any other law for the time being in force, the provisions of this Act shall prevail"*. Thus, there is an unresolved issue what will be adopted in conformity of DRAP Act-2012.
 - iv. Furthermore, Section-12(2) of DRAP Act-2012 (Annex-XII) speaks that, ***"A Board (i.e. Appellate Board) and Committee constituted under sub-section (1) shall act in accordance with the regulations made by the Board (i.e. Policy Board)."*** However, such regulations for Appellate Board are still to be made by the Policy Board.

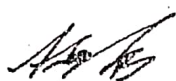
- v. As per Rule-8(1)(b) and Rule-24(1)(d) of Drugs (Licensing, Registering and Advertising) Rules-1976 (Annex-LIX), one representative of Directorate of Quality Assurance and Laboratory Testing (QA<) is member of Central Licensing Board as well member of Registration Board.
- vi. As a result, according to Section -11A of the Drugs Act-1976 (Annex-LXI) conflict of interest evolves and Director (QA<), being Chairman, Appellate Board, either to leave the charge of Director (QA<) or must not be at Appellate Board.
- vii. Generally, it is the principle of righteousness and integrity that Mr. Asim Rauf, being Acting CEO-DRAP, should nominate any other officer, *ad valorem*, to represent in Central Licensing Board and Registration Board to avoid conflict of interest.
- viii. However, being internal function of the Authority, it is responsibility of the Policy Board under Section-11(1)(b) of DRAP Act-2012 (Annex-XII) to monitor its functions.

Facts on Allegation-5:

- 18. The extant scenario on the fifth allegation is as under:
 - i. It is fact that Authority consists of a full time Chief Executive Officer (CEO) and thirteen Directors is still to be notified with the approval of the Federal Government on the recommendation of the Policy Board, under Section-4(1) of DRAP Act-2012 (Annex-XII) whose terms and conditions are also still to be prescribed.
 - ii. It is point of importance that Honourable Supreme Court of Pakistan in its Judgment dated 09-04-2015 in HRC No. 752 of 2009, HRC No. 2858 of 2006 and HRC No. 27484-P of 2012 (Annex-LXII) ordered that, "**.....Federal Government shall within a fortnight appoint all the 13 Directors on permanent basis in accordance with Section 4 of the Drug**

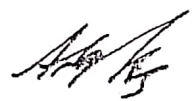
Regulatory Authority Act and intimate to the Registrar of this Court for our perusal in Chambers.”

- iii. Six expert members of the Policy Board of DRAP were de-notified with immediate effect as per M/o NHR&C's Notification No. F.3-80/2015-SO (Admn-II)/DRAP dated 19-12-2019 which had misapprehension which was rectified. The same Notification was withdrawn *ab-initio* vide M/o NHR&C's another Notification dated 24-12-2019 (*Both notifications are at Annex-LXIII*). Hence, influence from CEO-DRAP is unlikely.
- iv. The meeting of Departmental Selection/Promotion Board was convened to be held on 20-02-2020 to consider the promotion cases of Additional Director (RO-14) for the post of Director (RO-15) vide DRAP's letter No. F.6-1/2020-Admn-I dated 11-02-2020. Later on, it was postponed vide letter dated 17-02-2020 (*both letters are at Annex-LXIV*).
- v. As per DRAP Act-2012, appointing authority of CEO and Directors, DRAP is the Federal Government (i.e. the Cabinet). Therefore, these are not DRAP employees. These post are tenure posts for which rules and other terms and conditions are still to be framed with approval of the Cabinet.
- vi. Furthermore, Honourable Islamabad High Court (IHC) in its Judgment dated 19-02-2020 (*Annex-LXV*) in WP No. 541 of 2020 titled Dr. Abdul Rashid versus DRAP and others, granted stay on holding DSB for the purpose. Operative para under CM No. 01/2020 is, “*Notice. Until the next date of hearing, the operation of the impugned letter dated 11-02-2020 is suspended and the respondents are restrained from holding a meeting of the Departmental Selection/Promotion Board to consider the promotion cases for the post of Director in the D.R.A.P.*” Stay order is still effective as of 19-10-2020 according to the online case status report of IHC (*Annex-LXVI*).



Deliberations on Allegation-5:

19. The Inquiry Committee is convinced that;
- v. The most important and basic point is that there are no recruitment and promotion rules for CEO, Directors as well as other employees of DRAP due to which so many problems have been emerged. It may also be noted that CEO and thirteen Directors in DRAP shall be appointed by the Federal Government. However, for other employees, appointing authority is required to be notified up till now.
 - vi. Section-4(1) of DRAP Act-2012 is unblemished with following provisions;
 - a) CEO and thirteen Directors in DRAP shall be appointed by the Federal Government.
 - b) On the recommendation of Policy Board.
 - c) Whose qualifications, terms and conditions shall be such as may be prescribed.
 - vii. Prime Minister's Office organized meetings on 18th and 24th March 2020 to discuss issues of DRAP and Prime Minister's Office conveyed the Minutes of the meetings (**Annex-LXVII**) with stipulated timeline of activities to be completed by DRAP. Subsequently, CEO-DRAP was requested to do so vide M/o NHSR&C's letter No. 8-9/2020-SO (Admn-II)/DRAP dated 30-03-2020 (**Annex-LXVIII**).
 - viii. However, process of framing of rules and appointment of regular CEO-DRAP has not been initiated so far whereas Prime Minister's Office deadline was 06-04-2020 and 30-05-2020 respectively.
 - ix. The court case referred in para-18(vi) above has basically been filed due to non-framing of recruitment and promotion rules due to which the working environment of DRAP is being affected seriously.



Facts on Allegation-6:

20. The factual position on allegation-6 is as under;
- i. As per Establishment Division's O.M. No. 4/11/2016-CP-3-Vol, dated 26-04-2016 (**Annex-LXIX**), objections were raised on the amendments made in DRAP Employees Service Regulations-2015. The regulations dated 21-04-2015 (**Annex-XIII**) were approved by the Federal Government, However, through Regulations dated 10-09-2015 the word of 'Federal Government' was replaced with 'Policy Board' which was not approved by Federal Government.
 - ii. Establishment Division declared these amendments illegal and asked DRAP to get these amendments approved by the Federal Government.

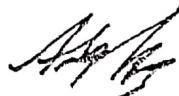
Deliberations on Allegation-6:

21. Points on allegation-6 have already been discussed in detail at para-11(vi) above.

Facts on Allegation-7:

22. The complainant has blamed that CEO-DRAP alongwith other officers is destroying official record. DRAP was requested to provide some important documents related to the hiring of Consultant vide Ministry's letter dated 25-09-2020 and DRAP provided information, except one point, vide their letter dated 01-10-2020 (**Annex-LXX**). It is stated that:

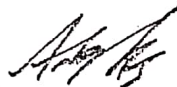
- i. It is fact that promotions have been made in DRAP without prescribed rules, regulations and other terms and conditions required under Section-23 of DRAP Act-2012.



- ii. Hiring of blue-eyed officers is vague allegation unless specified. However, a Consultant was hired and it would be discussed in detail hereinafter;
- a. Policy Board in its 29th meeting held on 06-08-2019, approved hiring of the Services of Consultant in DRAP and its criteria (Expression of Interest-EOI Document) on the recommendation of the Authority as well as evaluation committee to scrutinized the candidates (**Annex-LXXI**);
 - b. The tender for hiring consultancy services was first published in national newspapers on 31-08-2019 with last date of 17-09-2019 (**Annex-LXXII**). However, none bidder could qualify;
 - c. Tender was again published in newspapers on 13 & 14 October 2020 with last date of 28-10-2019 (**Annex-LXXIII**) and only one bid was received which was recommended by the Scrutiny Committee as per Minutes of the meeting dated 28-10-2019 (**Annex-LXXIV**);
 - d. DRAP Policy Board in its 30th meeting held on 30-10-2019 approved the hiring of Syed Sultan Ghani as Consultant at a fixed quoted cost of Rs 11,040,000/- per annum subject to successful completion of KPI, by annual evaluation and approval of the Policy Board (**Annex-LXXV**);
 - e. Letter of award of contract dated 16-12-2019 was issued by DRAP and subsequently Contract Agreement dated 16-12-2019 was signed between DRAP and the Consultant (**Annex-LXXVI**);
 - f. A Semi Annual Progress Report on reforms of DRAP was submitted undated by Syed Sultan Ghani, Consultant, DRAP whereas he wrongfully wrote himself as Advisor, Ministry of National Health Service, Regulations and

Coordination on the title page (**Annex-LXXVII**); which was considered by DRAP Policy Board in its 33rd meeting held on 17-08-2020 (**Annex-LXXVIII**). However, the Board approved Consultant's resignation from the service of DRAP with effect from 15-06-2020;

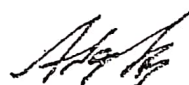
- g. As per DRAP's letter No. F. 1-10/2019-Admin-I, dated 16-09-2020 (**Annex-LXXIX**), the services of Syed Sultan Ghani were dispensed with as Consultant of DRAP with effect from 16-06-2020 on the grounds that he has not been able to render due services after 16-06-2020 due to COVID-19 and health related issues as informed to the Policy Board;
 - h. It is pertinent to mention here that appointment of Consultant and resignation must have been notified in the Gazette of Pakistan in a prescribed manner. In this case appointment was made only on signing a contract and resignation through a letter addressed to the Consultant.
- iii. All service matters, promotions and other terms and conditions of civil servants are required to be prescribed, pursued and monitored by the Policy Board in pursuance of Section-3(4), Section-7(l)&(m), Section-15(1)&(5)(d) and Section-23 of DRAP Act-2012 (**Annex-XII**);
- iv. It is pertinent to mention here that SRO.610(I)/2018 dated 31-12-2018 (*pages 1-5 & 81-85 of SRO are at* **Annex-LXXX**) and SRO.9(I)/2020 dated 01-01-2020 (**Annex-LXXXI**) were notified after duly recommended by the Authority and approved by the Federal Government in pursuance of Section-7 of DRAP Act-2012 (**Annex-XII**) and Section-12 of the Drugs Act-1976 (**Annex-LXI**) as per practice in vogue. There was not only increase in price of drugs but reduction was also carried out.



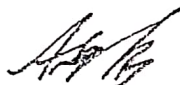
- v. However, it has been noticed that prices were fixed not only by their brand names but also by manufacturer names which is violation of Section-7(8) of the Drugs Act-1976 (Annex-LXI) describing therein that, ***"Single-ingredient drugs shall be registered generally by their generic names while compound drugs shall be registered by their proprietary names"***.
- vi. Registration of drugs and drugs manufacturers is the function of the Authority which has been defined in DRAP Act-2012 as well as rules made thereof under Drugs Act-1976.
- vii. As far as short movie clip supposedly destroying official record in DRAP is concerned, it was inquired by the members of Inquiry Committee during their visit to DRAP on 13-05-2020. CEO-DRAP explained that there was nothing as such official record was destroyed except some rough and un-necessary papers which has been videoed and scandalized.

Deliberations on Allegation-7:

23. Here are deliberations of the Inquiry Committee:
- i. DRAP has failed to make Recruitment and Promotion Rules so far, with the approval of the Federal Government, in pursuance of Section-4, Section-7(l)&(m) and Section-14(1) read with Section-23 of DRAP Act, 2012 for carrying out its purposes;
- ii. All service matters, promotions and other issues of civil servants working in DRAP are required to be resolved amicably and harmoniously in pursuance of Section-3(4), Section-7(l)&(m), Section-15(1)&(5)(d) and Section-23 of DRAP Act-2012.
- iii. The Policy Board of DRAP is responsible to monitor and supervise all the functions of the Authority in term of Section-11(1)(b) of DRAP Act-2012;

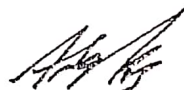


- iv. Appointment of Consultant on reforms of DRAP seems to be a smeared process as it was done without pre-requisite homework and prescribed rules/regulations.
- v. Section-7(1) of DRAP Act-2012, while describing powers and functions of the Authority, speaks, "appoint such employees, consultants, and experts as deemed necessary on prescribed terms and conditions including their salaries and remunerations with consultation and approval of the Board. Such recruitment, continuation and remuneration shall be based on merit and productivity";
- vi. As per sub-para-3 of para-1 of Expression of Interest (EOI) Document (**Annex-LXXXII**) of hiring of individual consultant for DRAP, bids were invited on single stage two envelope basis. However, selection criteria was made on the basis of least cost selection method under Regulation-3(C) of Procurement of Consultancy Services Regulations-2010 (**Annex-LXXXIII**). However, Regulation-3(C)(i) clearly explains that, "**Least Cost.**___ *This method will only be used for assignments of standard or routine nature, where well established practices and standards exist.*";
- vii. Hiring and selection of Consultant is a specialized job for reforms, innovation, adopting international best practices and taking other initiatives to meet the future challenges. It was required to adopt procedure in term of **Rulation-3(B) of Procurement of Consultancy Services Regulations-2010 which deals with quality and cost based selection** that is used where high quality is the prime consideration while cost is a secondary consideration;
- viii. As per para-9 of EOI, criteria for evaluation of technical bids defined which has five categories having different value. The bidder was required to obtain at least 50% marks in each



category and overall 80% score. When a candidate is required to obtain 50% threshold in each category then he would pass and qualify for financial bid. However, the condition of overall 80% score seems to be extravagant.

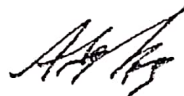
- ix. Category-5 of para-9 of EOI (Annex-LXXXII), the technical evaluation criteria was, "**Specific Experience (with Stringent Regulatory Organizations); 10 years' experience** of leadership position with a reputed stringent regulatory authority". This condition was exclusively person specific having experience of specific foreign country. It is pointed out that according to WHO Expert Committee on Specifications for Pharmaceutical Preparations Fifty-first Report, there are 35 countries (excluding Pakistan) whose NRAs (National Regulatory Authorities) are designated as SRAs (Stringent Regulatory Authorities). List of WHO's recognized countries having SRAs is at (Annex-LXXXIV);
- x. Furthermore, category-5 of para-9; technical evaluation criteria of EOI (Annex-LXXXII) was sufficient to screen out Pakistani candidates because DRAP was established only 8 years ago through DRAP Act-2012 and its employees adopted DRAP service in June 2015, therefore, they became disqualified having only four years' experience as per laid down criteria. Pakistan is not included in the countries having SRA;
- xi. It is pertinent to mention here that, "*No person shall be appointed as the CEO or Director of the Authority unless he is a citizen of Pakistan*" as per Section-14(3) of DRAP Act-2012 (Annex-XII). How can, the consultant would virtuously be a dual or foreign national? Selection criteria, without prescribed terms and conditions, seems *mala-fide* intention of the DARP Management;
- xii. Above all, as per Section-7(1) and Section 14(1) of DRAP Act-2012, DRAP has not prescribed terms and conditions for appointment consultants and experts etc. Without rules, such appointment seems imprecise.



- xiii. It was not clarified in advertisement whether dual nationals or foreign nationals were only invited or Pakistani are also encouraged to participate in the bidding process for hiring of consultant.
- xiv. It is again ascertained that CEO-DRAP, working on look after basis to dispose off the day to day business, does not have powers to decide any policy, administrative and financial decision keeping in view the Honourable Islamabad High Court's Judgment heard on 19-08-2020 and 03-09-2020, announced later (Annex-XLVI) in WP No. 882 of 2020 titled Dr. Sheikh Akhtar Hussain versus FOP and others. Furthermore, as quoted by the court, Establishment Division in its OM No. 8/3/2020-R-3 dated 20-03-2020 (Annex-LXXXV) explained therein that regarding the decision making process, there are certain orders which are of *quasi-judicial* nature and cannot be taken by an officer not formally designated to exercise those powers.
- xv. The charge of the posts of Directors was also assigned by CEO working on look after basis. As his own appointment was not approved by competent authority/forum, therefore, his audacious act to use powers of the Federal Government is *ultra vires* of the Section-4 of DRAP Act-2012. Hence, Authority does not exist lawfully in term of Section-4(1) of DRAP Act-2012 (Annex-XII).

Facts on Allegation-8:

24. Factual position on allegation-8 is an under:
- i. A short video clip (00:01:05) has been received (Annex-LXXXVI) from the plaintiff claiming therein that official record is being destroyed in DRAP;



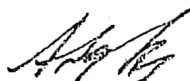
- ii. The complainant has requested to take appropriate action and to hold an inquiry to investigate into the matter.

Deliberations on Allegation-8:

25. Submissions of the Inquiry Committee are as under:
- i. The members of the Committee visited DRAP office on 13-05-2020 on the direction of the Chairman and asked about the video and material being destroyed. CEO-DRAP replied that there was nothing except some rough papers which were destroyed;
 - ii. It appears in the video clip (Annex-LXXXVI) that some files are piled up and are being torn away, *prima facie*, in the office of CEO-DRAP;
 - iii. As per S. No. 75(2) of Secretariat Instructions-2004, "Weeding means destruction of unnecessary papers of a file as asked by the Review Committee after review" (Annex-LXXXVII);
 - iv. The Inquiry Committee suggests forensic investigation of the video clip with review of weeding out procedure and schedule carried out by DRAP.

Facts on Allegation-9:

26. The facts on allegation-9, levelled by Mr. Haroon Yousaf, President, Pakistan Young Pharmacist Association, are mentioned here:
- i. The issue of promotion of DRAP Officers i. e. Mr. Asim Rauf, Dr. Muhammad Fakharuddin Aamir and Dr. Obaidullah without customized courses, has already been discussed in detail at para-11 and 12 of the report;
 - ii. The matter of, ante-dated promotion of Mr. Asim Rauf is discussed at large in para-11(vi) and para-12 of above.



Deliberations on Allegation-9:

27. The matter has already been discussed in para-12 in detail.

Facts on Allegation-10:

28. Mr. Muhammad Rizwan Asghar, the complainant repeated all allegations levelled in his previous complaints. Being repeated allegations, no need of further deliberations.

Facts on Allegation-11:

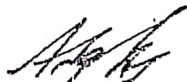
29. The matter of promotion of Mr. Asim Rauf and others has already been discussed in para-12 above.

Facts on Allegation-12:

30. The matter has already discussed in detail in para-16 under allegation-4 above. No need for further deliberations.

Facts on Allegation-13:

31. Facts on allegation-13 are as under:
- i. Appointment of Mr. Muhammad Aslam Afghani as CEO, DARP was declared illegal, void as well as removed by Islamabad High Court vide its Judgment (para-32) announced in open court on 14-04-2017 in WP No. 3637 of 2016 titled Ch. Muhammad Usman versus Muhammad Aslam Afghani etc. and WP No. 1021 of 2015 titled Mirza Abdul Rehman versus Federation of Pakistan etc. both heard on 31-01-2017. (Annex-LXXXVIII);
 - ii. Appointment of Syed Sultan Ghani as Consultant, DRAP has already been described in para-22(iv to xiii) above;



Deliberations on Allegation-13:

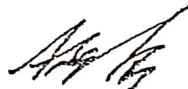
32. Here are submissions of the Inquiry Committee on allegation-13:
- i. No comments on Mr. Muhammad Aslam Afghani case because Judgment was accorded by the court of law.
 - ii. The affairs of DRAP can only be run smoothly, if the Authority is established and appointments are made in pursuance of Section-4 and Section-5 of DRAP Act-2012;
 - iii. All appointments are required to be carried out under prescribed rules in pursuance of Section-23 read with Section-4, Section-7(l)&(m) and Section-14(1) of DRAP Act, 2012.
 - iv. However, the Committee hereby suggests forensic investigation and separate inquiry on the movie clip with review of weeding out procedure carried out by DRAP.

Part-D

Conclusion and Recommendations

(a) Conclusion:

33. The Inquiry Committee unanimously convinced upon the conclusion as under:
- i. DRAP's Notification dated 17-05-2017 (Annex-XXII) wherein Mr. Asim Rauf and two other DRAP employees were **promoted** from the post of Deputy Director (RO-13) to the post of Additional Director (RO-14) is illegal and illicit in terms of:
 - a. Asim Rauf and two other DRAP employees exercised irrevocable option for DRAP service with effect from 19-06-2015;



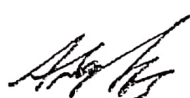
- b. The Order dated 03-04-2017 passed by FST, Lahore in M.P. No 174/2015 in Appeal No. 1563(R)CS/2009 titled Asim Rauf Vs M/o Health as the case has not been concluded and was adjourned *sine-die*. Jurisdiction of FST in this case is still to be resolved;
- c. Absence of rules under Section-4, Section-7(l)&(m) and Section-14(1) read with Section-23 of DRAP Act-2012;
- d. Not meeting eligibility criteria in respect of length of service and customized course as per Schedule-II, S. No. 2, of (provocative) DRAP Employees Service Regulations-2015 dated 21-04-2015 (Annex-XIII);
- e. Wrongfully presenting the promotion case of Mr. Asim Rauf, Deputy Director (RO-13), Dr. Muhammad Fakharuddin Aamir, Deputy Director (RO-13) and Dr. Obaidullah, Deputy Director (RO-13) DRAP to Departmental Selection Board (DSB) in its meeting held on 14-06-2016 (Annex-XL) concealing the facts about their eligibility;
- f. Violation of Prime Minister's directions on designing customized courses immediately for DARP employees while rejecting proposal of the Summary for Prime Minister dated 16-09-2016 (Annex-XLII);
- g. Violation of Finance Division (Expenditure Wing)'s letters dated 29-07-2016 and 26-07-2017 wherein ban was imposed upon creation of new posts except those required for development projects;
- h. FST, Islamabad's Judgment dated 25-04-2019 in Appeal No.1646(R)/2018 with MP titled Dr. Noor Muhammad Shah versus FOP/Secretary, M/o NHSR&C etc.



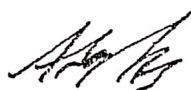
describing therein that all employees of DRAP are bound to complete customized training for promotion to the higher post (Annex-XXXIX).

ii. Furthermore, DRAP's Notification No.2-26/2014-Admn-I(I) dated 21-02-2018 (Annex-XXV) wherein Mr. Asim Rauf, Additional Director RO-14), DRAP was granted **ante-dated promotion** with effect from 07-09-2009 is illegitimate and unlawful in terms of;

- a. Seniority in the previous cadre/service of M/o NHSR&C was not restored;
- b. Not discussing and recommending ante-dated promotion by Departmental Promotion Committee of M/NHSR&C;
- c. Not forwarding the case to FR-17(1) Junior Level Committee as per Guidelines issued by Finance Division vide OM No. 4(6)Imp/FR-17/2013-277 dated 18-09-2015 regarding ante-dated promotion (Annex-XXXIV);
- d. Having been approved ante-dated promotion by the incompetent forum (i.e. CEO-DRAP);
- e. Charge relinquishment of lower post and charge assumption of higher post was not been done according to the Establishment Division's OM dated 31-07-2018 (Annex-XXXII);
- f. Eligibility criteria was not met in term of defunct Ministry of Health's Recruitment and Promotion Rules-2007 (Annex-XXXXIII);
- g. Having no right to claim any benefit of his previous service as civil service in pursuance of Establishment



- h. Applicability and governance of Section 15(5)(b)&(c) of DRAP Act-2012 (Annex-XII).
- iii. Assigning look after charge of the post of Chief Executive Officer, DRAP to Mr. Asim Rauf, Additional Director (RO-14) with immediate effect until further orders as per Office Order dated 07-03-2019 (Annex-LV), without approval of the Federal Government, is violation and *contra legem* of Section-5(6) of DRAP Act, 2012 (Annex-XII);
- iv. Persistent practice to assign current or additional charge of the posts of Director, DRAP to Additional Directors by CEO is palpable desecration of Section-4(1) of DRAP Act, 2012;
- v. Appointment of regular CEO-DRAP will put DRAP on track and process is required to be initiated as per directions of Prime Minister's Office as conveyed through Minutes of the meetings dated 27-03-2020 (Annex-LXVII);
- vi. DRAP has failed to prescribe rules describing therein qualification, terms and conditions, criteria etc. in pursuance of Section-23 read with Section-4, Section-7(l)&(m) and Section-14(1) of DRAP Act, 2012 (Annex-XII);
- vii. DRAP has also botched to prescribe regulations in pursuance of Section-24 read with Section-7(c)(iii)(vi)(vii)&(x), Section-7(q)&(s), Section-10(3), Section-12(2) of DRAP Act, 2012 (Annex-XII) with approval of the Policy Board and duly concurred by the relevant forum as the case may be;
- viii. Appointment of officers, employees, experts and consultants are required to be made in term of Section-14(1) subject to the rules as prescribed;

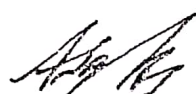


- ix. Forensic investigation and examination is required to be carried out on the short video clip (00:01:05) received by the complainant (Annex-LXXXVI);
- x. Registration and fixation of prices is required to be carried out under provisions of Section-7 of DRAP Act-2012 (Annex-XII) and Section-7(8) of the Drugs Act-1976 (Annex-LXI);
- xi. Harmonization and synchronization between civil servants and DRAP employees would avoid un-necessary litigation and shall head towards fabulous working environment in DRAP as well as its functions to focus on regulatory matters.

(b) Recommendations:

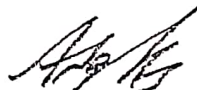
34. The Inquiry Committee hereby recommends that:

- i. Secretary, M/o NHR&C/Chairman DRAP Policy Board may review and dis-approve the recommendations made by Departmental Selection Board (DSB), headed by CEO-DRAP, in its meeting held on 14-06-2016 (Annex-XL) wherein three officers were recommended for promotion without meeting eligibility criteria and even in absence of recruitment and promotion rules as well as M/o NHR&C's letter No. F.6-3/2015-Admn-II/DRAP dated 17-05-2017 may also be withdrawn *ab-initio*;
- ii. Similarly, ante-dated promotion granted to Mr. Asim Rauf, Additional Director (RO-14) vide DRAP's Notification No. F.6-3/2015-Admn-II (Pt-II) dated 21-02-2018 may be declared illegal having no prudence and lawful cover;
- iii. Office Order dated 07-03-2019 (Annex-LV) issued by M/o NHR&C assigning look after charge of the post of Chief Executive Officer, DRAP to Mr. Asim Rauf, Additional Director



(RO-14) may be withdrawn *ab-initio* due to ~~contra~~ *legem* of Section-5(6) of DRAP Act, 2012 (Annex-XII);

- iv. Rules may be framed immediately in pursuance of Section-23 read with Section-4, Section-7(l)&(m) and Section-14(1) of DRAP Act, 2012 (Annex-XII);
- v. DRAP Employees Service Regulations-2015 (including all subsequent amendments) may be forwarded to Establishment Division with request to evaluate and authenticate with those (DRAP Employees Service Regulations-2013) concurred by the Establishment Division vide OM No. 4/4/2013-R-III dated 04-03-2013 (Annex-XXXVII-A).
- vi. Regulations may also be made in pursuance of Section-24 read with Section-7(c)(iii)(vi)(vii)&(x), Section-7(q)&(s), Section-10(3), Section-12(2) of DRAP Act, 2012 (Annex-XII) with approval of the Policy Board and duly concurred by the relevant competent forum as the case may be;
- vii. Chief Executive Officer, Drug Regulatory Authority of Pakistan and thirteen Directors may be appointed strictly under provisions of Section-4 read with Section-5 of DRAP Act-2012 (Annex-XII) and as ordered by the Honourable Supreme Court of Pakistan in its Judgment dated 09-04-2015 in HRC No. 752 of 2009, HRC No. 2858 of 2006 and HRC No. 27484-P of 2012 (Annex-LXII);
- viii. Forensic investigation may be carried out by any law enforcement agency on the short video clip (00:01:05) received by the complainant (Annex-LXXXVI);
- ix. The degree of Syed Sultan Ghani, ex-Consultant, DRAP (from 16-12-2019 to 15-06-2020) may be got verified from Higher Education Commission as recommended by the Scrutiny Committee vide its Minutes of the meeting dated 28-10-2019



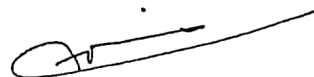
(Annex-LXXIV) and, in future, such appointments may only be made in term of Section-7(l) and Section-14(1) read with Section-23 of DRAP Act-2012;

- x. Functions of the Policy Board may be accelerated and excelled in pursuance of Section-10(3), Section-11(1)(a)&(b) and Section-12 read with Section-30(3) of DRAP Act-2012.

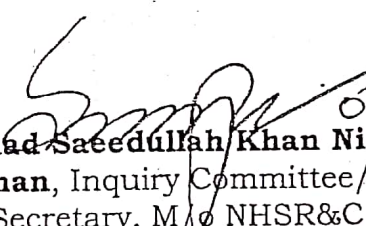
Dated: 20th October, 2020



Asghar Ali
Member, Inquiry Committee/
Deputy Secretary, M/o NHR&C



Adeel Ashraf
Member, Inquiry Committee/
Deputy Secretary, M/o NHR&C



Muhammad Saeedullah Khan Niazi
Chairman, Inquiry Committee/
Joint Secretary, M/o NHR&C

02/03/2021

No.F. 1-1/2020-DS(Admn-II)
Government of Pakistan
Ministry of National Health Services, Regulations & Coordination

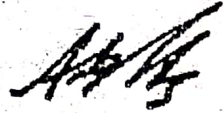
Subject: Inquiry Report on Illegal Promotion and Other Charges on Mr. Asim Rauf
Additional Director/Acting CEO, DRAP

Reference approval of the Secretary, M/o NHSR&C and Admn Wing's Office Order No. F.7-35/2019-Admn-II dated 29-04-2020, the Inquiry Committee was constituted headed by then Joint Secretary (Admn) and included then Deputy Secretary (Estab-I) and Deputy Secretary (Admn) as member. The purpose was to investigate allegations received through Prime Minister's Office and subsequently complaint received from National Accountability Bureau, Rawalpindi and Prime Minister's Public Affairs and Grievances Wing, Ministry of Parliamentary Affairs. At the commencement, the Committee sought timeline of one month which was further patronized by the Chairman, Inquiry Committee.

2. The main hurdle and difficulty in investigation was non-availability of record which took considerable time in compiling report. Though, the report was completed and concluded on 20-10-2020, however, Chairman, Committee checked, studied and analyzed it thoroughly and signed on 02-03-2021. Furthermore, the undersigned was engaged in election process of National Council for Tibb during February/March which was too instant nature task.

3. Nonetheless, the Inquiry Report has been compiled, printed and prepared in six volume having four sets i.e. one original plus three sets of copies. It is proposed that the Inquiry Report may be submitted to Prime Minister's Officer with copy to National Accountability Bureau, Rawalpindi and Prime Minister's Public Affairs and Grievances Wing, Ministry of Parliamentary Affairs accordingly.

4. The sealed report is hereby submitted to the Secretary, M/o NHSR&C for perusal/approval to the proposal made at para-3/N, please.



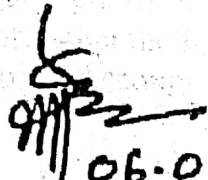
(Asghar Ali)

Deputy Secretary/Member

06-04-2021

The Chairman, Inquiry Committee

Secretary


06.04.2021