

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
(Appellate Jurisdiction)
C.P.L.A. No. 06/2012.

Before: -

Mr. Justice Rana Muhammad Arshad Khan, Chief Judge,
Mr. Justice Raja Jalal-ud-Din, Judge,

1. Provincial Government Gilgit-Baltistan through Chief Secretary Gilgit-Baltistan.
2. Inspector General of Police Gilgit-Baltistan.
3. Senior Superintendent of Police district Ghizer.

Petitioners.

Versus

Jan wali s/o Gul Hakeen r/o Hakis Tehsil Gupis District Ghizer at present FC, SP office, Ghizer.

Respondent.

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN (EMPOWERMENT AND SELF GOVERNANCE) ORDER, 2009 READ WITH SUPREME APPELLATE COURT RULES, 2008 AGAINST THE JUDGMENT/ORDER DATED 21.12.2011 PASSED BY THE CHIEF COURT GILGIT-BALTISTAN.

Present: -

Advocate General Gilgit-Baltistan.

Dated of Hearing:-25-03-2014.

JUDGMENT

Justice Rana Muhammad Arshad Khan, CJ: This petition by way of special leave to appeal is directed against the order dated 21.12.2011, passed by the learned single Judge of the Hon'ble Court Gilgit-Baltistan whereby Civil miscellaneous Application No. 34/2011, filled by the writ petitioner for the implementation of the Judgment/Order dated 24.11.2010, passed in Writ Petition No.

77/2009 was accepted with the direction to the respondent for payment of back benefits to respondent herein.

2. The facts in brief as gleaned out from the record are that the respondent was recruited as Foot Constable vide Order dated 31.10.2005. He, thereafter, completed his training period successfully and remained posted at different places in the Police department. The services of the respondent herein were terminated by the competent authority vide Order No. SP/GZR-1(13) 13920-97/06 dated 09.10.2006 on the main charge of having involved in Case FIR No. 18/2006 dated 29.08.2006, registered under Section 224/223 PPC at the instance of SI/SHO of the Police Station Chatorkhand District Ghizer. The respondent filed a departmental appeal against the said termination order before the AIG headquarters, Police. The appeal was dismissed vide Order No. SP/GZR -1(13)/11323/07 dated 19.10.2007 passed by the appellate authority. Whereupon, the respondent approached the Chief Court Gilgit-Baltistan by filing a Writ Petition bearing No. 77/2009 for the redressal of his grievance. The petition was accepted vide Judgment dated 24.11.2010 with the direction that the Writ Petitioner be reinstated in service with back benefits for the period during which, he had not remained gainfully employed elsewhere. The appellant who were aggrieved of the order mentioned above moved this Court in CPLA No. 13/2011 which was disposed of in terms as follows:-

“In view thereof, we without taking any exception to the order of Chief Court dispose of this petition with observation that the competent authority may, if so desire, initiate regular inquiry into the conduct of Police Official in accordance with law. Dispose of.”

3. The respondent filed a Civil Miscellaneous Application for implementation of the Order dated 24.11.2010 passed by the learned Single Judge of Chief Court Gilgit-Baltistan in Writ Petition No. 77/2009. The afore-referred petition was allowed by the Chief Court vide order dated 21.12.2011 in terms as under:-

“The petitioner has been re-instated in response to the Judgment of this Court dated 24.11.2010, which was upheld by the Supreme Appellate Court on 26.05.2011, but the respondent No. 2 in violation of Court Order without allowing back benefits. This petition is disposed of with the strict direction to the respondent No. 2 for allowing back benefits to the petitioner as have been ordered by the Court.

Petitioner can move afresh if deprived him after reasonable time.

Petition disposed of accordingly. File”

4. The petitioner feeling aggrieved assailed aforesaid order dated 21.12.2011 in CPLA No. 06/2012 before this Court.
5. Arguing the case, the learned Advocate General Gilgit-Baltistan has submitted that the impugned order is against facts and record and that the Hon’ble Chief Court never applied its judicious mind while handing down said judgment. He submitted further that the matter of payment of back benefits was left to the discretion of competent authority and as such, learned Chief Court could not take up the matter and thereafter, direct the payment of back benefits. It has been argued further that the learned Chief Court exercised its jurisdiction illegally with material irregularity and the order has been passed without taking into consideration the actual controversy and as such the same is liable to be set aside.
6. Arguments heard and record perused.
7. The trend and tenor of the order dated 26.05.2011 mentioned above clearly reflects that the authority was only given the mandate to hold regular inquiry, if so desired. It nowhere dealt with

postponement of payment of back benefits till conclusion of inquiry if so initiated against the respondent herein. In view of judgment mentioned supra, there remains no room for doubt that the respondent is entitled to recover back benefits as per orders of this Court dated 26.05-2011 and no exception can be taken to it. We have perused impugned order very carefully and found no illegality at all which may require interference.

8. Upshot of the whole exercise is that the impugned order is in accordance with law and never calls for any interference.

9. The petition is dismissed. Leave refused.

Chief Judge

Judge