

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN AT
REGISTRY BRANCH SKARDU.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

Civil Appeal No. 21/2015

In

CPLA No. 01/2014.

1. Government of Gilgit-Baltistan through Chief Secretary Gilgit-Baltistan.
2. Secretary Education Gilgit-Baltistan, Gilgit.
3. Director Education Baltistan Region, Skardu.
4. Deputy Director Education Ghanche, Khapulu.
5. District Accounts Officer Ghanche, Khapulu.
6. DDO Headmaster High School Daghoni Khapulu.
7. DDO Headmaster High School Keris Ghanche.
8. DDO Headmaster High School Thallay Ghanche.
9. DDO Headmaster High School Ghowari Ghanche.
10. DDO Headmaster High School Partok Ghanche.

Petitioners.

Versus

1. Sonia d/o Ghulam Abbas r/o Tehsil Khapulu, District Skardu.
2. Zubaida d/o Musa Ali r/o Balgar, Tehsil Daghoni, District Ghanche.
3. Ahmed Ali s/o Abdul Rahim r/o Tehsil Daghoni, District Ghanche.
4. Zahra Batool d/o Fida Ali r/o Tehsil Daghoni, District Ghanche.
5. Muhammad Saleem s/o Shakoore Ali Tehsil Daghoni, District Ghanche.
6. Fayyaz Hussain s/o Akhond Tariq r/o Kharkoh Tehsil Daghoni, District Ghanche.
7. Anwar Ali s/o Muhammad Ali Tehsil Daghoni, District Ghanche.
8. Khadija Enayat d/o Muhammad Nazir r/o Tehsil Daghoni, District Ghanche.
9. Muhammad Ali son of Musa r/o Kharkoh Tehsil Daghoni, District Ghanche.
10. Muhammad Ishaque son of Ghulam Rasool r/o Kharkoh Tehsil Daghoni, District Ghanche.
11. Abdul Hameed son of Muhammad Hussain r/o Balghar Tehsil Daghoni, District Ghanche.
12. Saima d/o Ghulam Hussain Noorani r/o Thallay Tehsil Daghoni, District Ghanche.
13. Najma d/o Ibrahim r/o Thallay Tehsil Daghoni, District Ghanche.

14. Nazia Akari d/o Ghulam Mehdi r/o Tehsil Khapulu District Ghanche.
15. Maryam d/o Muhammad Yousaf r/o Tehsil Khapulu District Ghanche.
16. Arfa Bano d/o Muhammad Yousaf r/o Tehsil Khapulu District Ghanche.
17. Fiza Bano d/o Mushtaq Hussain Kharkoh Tehsil Daghoni District Ghanche.
18. Tahira d/o Dawood r/o Tehsil Khapulu District Ghanche.
19. Maila Batool d/o Ghulam Hussain Tehsil Khapulu District Ghanche.

Respondents.

Present:-

1. The Advocate General Gilgit-Baltistan for the petitioners.
2. Mr. Johar Ali Khan Advocate Legal Adviser for Education Department Gilgit-Baltistan.
3. Mr. Muhammad Issa senior Advocate on behalf of the respondents.
4. Mr. Manzoor Ahmed Advocate for the respondents.

DATE OF HEARING: - 25-05-2016.

DATE OF DETAIL JUDGMENT:-21.07.2016.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Petition has been directed against the impugned judgment dated 23.05.2013 in Civil Revision No. 32/2012 passed by the learned Gilgit-Baltistan Chief Court, whereby the same Revision Petition was allowed vide judgment dated 23.05.2013 by converting the Civil Revision into a Writ Petition. The petitioners being aggrieved by and dissatisfied with filed this petition for leave to appeal. This court vide order dated 14.09.2015 granted leave to appeal while suspending the impugned judgment of the learned Gilgit-Baltistan Chief Court. The case was fixed for final arguments on 25.05.2016.

2. The learned Advocate General alongwith Mr. Johar Ali Khan legal Adviser, Education Department Gilgit-Baltistan submits that the order of the learned Trial Court was passed in accordance with the law and the appointment letter was illegal, void and without any lawful authority. They further submit that the person who issued the appointment letters was not competent officer to issue the same. They further submit that the order of the learned Trial Court was upheld by the learned District Judge but the same was reversed by the learned Chief Court Gilgit-Baltistan. They further submit that the learned Trial Court dismissed the application under Order 39 Rule (1) & (2) read with Section 151 CPC. They further submit that the learned Trial Court upon hearing rejected the plaint under Order 7 Rule 11 CPC.

3. They further submit that the learned District Judge on appeal dismissed the application for grant of temporary injunction filed by the respondents and the Deputy Commissioner Ghanche was directed to continue the recovery proceedings. They further submit that the proceedings regarding rejection of plaint under Order 7 Rule 11 kept alive which was still pending adjudication. They also submit that the respondent No. 01 Muhammad Iqbal filed Civil Review No. 32/2012 and Civil Review No. 27/2012 filed by Sonia D/o Ghulam Abbas and upon hearing both the parties the learned Gilgit-Baltistan Chief Court converted the review applications into a Writ Petition and the same was allowed. They further submit that the impugned judgment passed

by the learned Gilgit-Baltistan Chief Court without perusing the records and misreading/non-reading of the facts of case, therefore, the same is not tenable and liable to set aside.

4. On the other hand the learned counsels for the respondents support the impugned judgment. They contend that the Education Department Ghanche had some vacant posts of BPS-14, BPS-16, Assistant Head Master and Head Master (BPS-18) created either freshly or fallen vacant due to retirement of some teachers in the year 2011 and 2012. They further contend that through internal inspections and scrutiny of service record of teachers and office staff it transpired that during the period of 2011-12 the respondents have been appointed in BPS-09 by the then Director Education Baltistan Region in the vacant posts of teachers from BPS-14 to 19. They further contend that the services of the respondents were terminated neither serving them with a show cause notice nor they were afforded an opportunity of being heard. They further contend that the learned Gilgit-Baltistan Chief Court has rightly allowed the Writ Petition of the respondents vide judgment dated 23.05.2013 which is in accordance with law and facts of the case, hence, no interference is warranted into it and the same is required to be maintained to meet the ends of justice.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned judgment dated 23.05.2013 passed by the learned Gilgit-Baltistan Chief Court. Consequently, we converted

this petition into an appeal and the same was allowed vide our order dated 14.09.2015. Consequent thereto the impugned judgment dated 23.05.2013 in Writ Petition passed by the learned Gilgit-Baltistan Chief Court was set aside. The case is remanded back to the learned Gilgit-Baltistan Service Tribunal with the directions to decide the case expeditiously on its merit within a period of one month after receipt of this order. In the meanwhile we stay the recoveries of the salaries as directed by the learned District Judge Ghanche vide his order dated 14.06.2012 from the respondents till the decision of the case by the learned Service Tribunal Gilgit-Baltistan. These were the reasons for our short order dated 25.05.2016.

6. The appeal is allowed in above terms.

Chief Judge.

Judge.

Whether the case is fit to be reported or not?