

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.

Mr. Justice Javed Iqbal, Judge.

Mr. Justice Shehbaz Khan, Judge.

C. Misc. No. 95/2014,

C. Misc. No. 94/2014,

C. Misc. No. 90/2014,

C. Misc. No. 67/2014,

in

Civil Appeal No.30/2016.

in

CPLA .No. 25/2012.

1. Provincial Government through Chief Secretary Gilgit-Baltistan.
2. Secretary Health Gilgit-Baltistan, Gilgit.
3. Director Health Gilgit Region Gilgit.
4. District Health Officer Gilgit, District. **Petitioners.**

Versus

1. Jamsheed Alam s/o Shah Sahib caste Sheen Village Khaltaro Haramosh Tehsil & District Gilgit.
2. Naveed Hussain s/o Mirza r/o Khaltaro Haramosh Tehsil & District Gilgit. **Respondents.**

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE) ORDER, 2009 READ WITH SUPREME APPELLATE COURT ENABLING RULES AGAINST THE IMPUGNED JUDGMENT/ORDER DATED 16.10.2012 PASSED BY DIVISION BENCH CHIEF COURT GILGIT-BALTISTAN IN WRIT PETITION NO. 103/2011 WHEREBY THE WRIT PETITION FILED BY THE RESPONDENT HAS BEEN ACCEPTED AND THE VOID APPOINTMENT ORDER OF CADRE-1 FORCIBLY AND ILLEGALLY OBTAINED BY RESPONDENT HELD VALID AND CANCELLATION OFFICE ORDER OF PETITIONERS 01 TO 04 VIDE NO. 1408/DHO/ESTB/2005 DATED 27.10.2011 SET ASIDE.

PRESENT:-

1. The Advocate General alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Malik Shafqat Wali senior Advocate on behalf of the respondent No. 01.
3. Mr. Johar Ali Khan Advocate on behalf of the respondent No. 02.

DATE OF HEARING: - 13.05.2016.

DATE OF DETAIL JUDGMENT: - 18.05.2016.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This petition has been arisen out of the impugned judgment/order dated 16.10.2012 passed by the learned Chief Court Gilgit-Baltistan in Writ Petition No. 103/2011 whereby the said Writ Petition was allowed and the cancellation order dated 27.10.2011 regarding the appointment of the respondent No.01 as Grade-01 was set aside declaring the same as illegal and without lawful authority. The petitioners feeling aggrieved by and dissatisfied with filed this petition for leave to appeal. This court vide order dated 17.06.2014 issued notice to the respondent. In the meantime, on the application of the petitioners Mr. Naveed Hussain was also arrayed as proforma respondent in this case vide order dated 10.11.2014 of this court who was earlier inadvertently inserted as petitioner No. 05. The case was fixed for final arguments on 13.05.2016 and upon hearing we converted the petition into an appeal and the same was dismissed accordingly.

2. The learned Advocate General submits that the petitioners had already appointed two family members of the respondent No. 01 in return of his land which was acquired by the Provincial Government for the construction of Civil Dispensary Khaltaro District Gilgit. The petitioners upon knowing the fact has rightly cancelled the appointment order of the respondent No. 01 vide office order No. 1408-DHQ/Estb/2005 dated 27.10.2011. he also submits that the newly arrayed respondent was appointed as

Grade-1 purely on merit basis while adopting the prescribed law and rule. He further submits that the respondent No. 01 was not qualifying for the said post being a minor against which he was inadvertently been appointed which was later on reversed keeping in view this ground. He finally submits that the impugned judgment/order dated 16.10.2012 in Writ Petition No. 103/2011 passed by the learned Gilgit-Baltistan Chief Court is not sustainable and liable to be set aside being the said is the result of misconception of law and misreading/non-reading of the facts of the case.

3. On the other hand, Mr. Malik Shafqat Wali, learned senior Advocate appearing on behalf of the respondent No.01 supports the impugned judgment/order as according to him the same is well reasoned and well founded. He contends that no interference into the said impugned judgment/order is warranted in the interest of justice and equity. He contends that additional documents have been submitted by him in which the copy of the CNIC and School Leaving Certificate of the respondent No. 01 has been attached. The careful perusal of the said documents reveals that the respondent was not minor (below the age of seventeen years) at the time of his appointment as Grade-01 in Civil Dispensary Khaltaro District Gilgit. Mr. Johar Ali Khan, learned Advocate for respondent No. 02 also supports the impugned judgment/order dated 16.10.2012 in Writ Petition No. 103/2011 passed by the learned Gilgit-Baltistan Chief Court. He submits that

the said impugned order may please be maintained being well reasoned and in accordance with law and facts.

4. We have heard the learned Advocate General Gilgit-Baltistan as well as both the learned counsels for respondent No. 01 & 02 at length, perused the record of the case file and gone through the impugned judgment/order dated 16.10.2012 in Writ Petition No. 103/2012 passed by the learned Gilgit-Baltistan Chief Court. The learned Advocate General Gilgit-Baltistan could not find any illegality and infirmity in the impugned judgment/order dated 16.10.2012 in Writ Petition No. 103/2011 passed by the learned Gilgit-Baltistan Chief Court. Consequently, we converted this petition into an appeal and the same was dismissed vide our short order dated 13.05.2016. These are the reasons for the said short order. In view of the above discussions the impugned judgment/order dated 16.10.2012 in Writ Petition No. 103/2011 passed by the learned Gilgit-Baltistan Chief Court was also maintained vide the said short order.

5. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Judge.

Whether the case is fit to be reported or not?