

**IN THE SUPREME APPELLATE COURT, GILGIT BALTISTAN**  
SMC No. 02/2010  
(Judges of Chief Court)

**Before: Mr. Justice Muhammad Nawaz Abbasi, Chief Judge.**  
**Mr. Justice Syed Jaffar Shah, Judge.**  
**Mr. Justice Muhammad Yaqoob, Judge.**

Haji Mirza Ali Sr. Advocate for petitioners  
Advocate General Gilgit Baltistan

**Order Dated 07-06-2010.**

The judges of Chief Court Gilgit Baltistan have preferred this petition before this court seeking declaration (a) that they were entitled to the same salary and allowances which were admissible to the judges of the High Court of AJ&K from the date of change of their nomenclature of Chairman and Members of the Chief Court as the Chief Judge and Judges of the said court and (b) that the Judicial officers of the subordinate judiciary in Northern Areas were allowed judicial allowance since 2001 and in the same manner the Chairman and Members of the Court while holding higher judicial position as appellant authority of the District and Sessions Judges in Northern Areas were entitled to the Judicial Allowance from the date of their induction in service which was permissible to the Judicial Officers of their status in the Judiciary of Pakistan.

The KA&NA Division, Government of Pakistan on the representation of Chairman and Members of the Chief Court having considered the matter moved a summary to the Prime Minister of Pakistan on the subject “terms and condition for the Chief Judge and the Chief Court Northern Areas” in terms of article 8 of Chief Court Established Order 1998 which is read as under: -

“The remuneration and other terms and conditions of service of the Chairman or Members shall be such as the Federal government may, from time to time, determine and such terms and conditions as have not been provided for in this order or determined under this paragraph shall be the same as of a Civil Servant in equivalent grade or scale”.

In consequence to the recommendation of concerned Ministry in the Federal Government of Pakistan the competent authority approved the proposal for grant of judicial allowance to the Chairman and Members of the Chief Court and Notification in this behalf was accordingly issued. The grievance of the petitioners is that they were entitled to the judicial allowance from the date of their induction in service with the nomenclature of Chairman and Member of Chief Court and not from a subsequent date.

Later the Chairman and Members of the Chief Court were re-designated as Chief Judge and judges of the Chief Court and the summary containing the proposal that the Chief Judge and the Judges of the Chief Court Northern Areas may be treated at par to the Chief Justice and Judges of High Court of AJ&K for the purpose of pay and allowances was approved by the Prime Minister. The notification was accordingly issued on 28<sup>th</sup> April 2008 whereby the Chief Judge and the Judges of the Chief Court for the purpose of pay and allowances were treated at par to the Judges of the High Court of Azad Jammu and Kashmir.

Learned Counsel for the petitioners has argued that the Chairman and Members of Chief Court established under Northern Areas Governance Ordinance 1994 read with Chief Court Establishment Order 1998 were practically discharging the same functions as of the Judges of High Court of AJ&K and the High Courts in provinces of Pakistan and that their nomenclature of Chairman and Members of Chief Court was also subsequently changed as Chief Judge and Judges equal to the status of Chief Justice and Judges of the High Court of Azad Jammu and Kashmir and that the Chief Court in the Judicial system of Gilgit Baltistan being appellate authority of District and Sessions Judges in Northern Areas was highest forum with the power of judicial review, therefore like judicial officers in the subordinate Judiciary in Northern Areas who were allowed judicial allowances w.e.f 22<sup>nd</sup> November 2001, the Chairman and Members of the Chief

Court notwithstanding their appointment as Civil Servant in BPS-21, in terms of article 8 of Chief Court Establishment Order 1998 by holding the judicial posts in a higher forum would be entitled to the Judicial Allowance without any discrimination. In nutshell the learned counsel submitted that the Chief Judge and Judges of Chief Court were entitled to the payment of Judicial Allowance w.e.f the date of their appointment as Chairman and Members of the Chief Court.

Having heard the learned counsel for the petitioners and Learned Advocate General and also the examination of the matter in detail we have found sufficient force in the contention raised in support of this petition. The Chief Judge and Judges of Chief Court were initially appointed as Chairman and Members of the Chief Court in BPS-21 as Civil Servants but subsequently they were awarded the status equal to the Chief Justice and Judges of High Court of AJ&K by virtue of an amendment made in Northern Areas Governance Order 1994 in 2007. The Chief Court from the date of its establishment for all intend and purposes was a superior court in Northern Areas and in principle in the light of judicial status of the Court, the Chairman and Members would be entitled to the pay and allowances and other privileges admissible to a superior court and competent authority in the Federal Government of Pakistan also realizing the disparity awarded them the status equal to the Judges of High Court of AJ&K. The judicial allowance permissible to the judicial officers of judiciary in Northern Areas and other parts of the country was also allowed to them from the date of Notification issued in this behalf whereas they claimed payment of Judicial allowance from the date of their appointment.

The Chairman and Members of Chief Court while discharging judicial functions of a high judicial forum would stand at par to other judicial authorities for all intend and purposes and had a legitimate right to claim judicial allowance from the date of their induction and since the judicial allowance was admissible to all judicial officers at all level for discharging the judicial functions therefore the

executive authorities were not supposed to withheld such benefit to the Chairman and Members of Chief Court in their discretion. Consequently we hold that they were entitled to the Judicial allowance from the date of their joining the service which was wrongly withheld.

The Northern Areas Governance Order 1994 was of the status of fundamental law and Chief Court was established thereunder read with Chief Court Establishment Order 1998 as the highest Judicial forum in Northern Areas. The Chairman and Members of the Chief Court by virtue of an amendment made in 2007 in the Northern Areas Governance Order 1994 were awarded the status of Chief Judge and Judges of the High Court of AJ&K for the purpose of pay and allowances and other privileges, therefore, notwithstanding the issue of formal notification from a subsequent date they would be entitled to same salary and allowances from the date of Change of their nomenclature through the above amendment in Northern Areas Governance Order 1994 and we hold accordingly.

The Law Department of the Government of Gilgit Baltistan will accordingly initiate process for approval of judicial allowance from the date on which the Chairman and Members of the Chief Court joined the service and salary admissible to them as Chief Judge and Judges of the Chief Court from the date of amendment in Northern Areas Governance Order 1994 in 2007. This petition with the above direction stands disposed of with no orders as to the costs.

**Chief Judge**

**Judge**

**gJudge**