

BEFORE THE SUPREME APPELLATE COURT GILGIT-BALTISTAN.**GILGIT**

Before:- Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.

Mr. Justice Javed Iqbal, Judge.

Mr. Justice Shabaz Khan, Judge.

Civil Appeal No. 05/2016

In

CPLA. No. 09/2016

1. Muhammad Saeed, Assistant BPS-14 District Council Astore.
2. Abdul Khaliq Accounts Officer BPS-11 District Council Ghanche.
3. Nusrat Ali Computer Operator BPS-12 Municipal Committee Astore.
4. Shakeel Abbas Computer Operator BPS-12 District Council Ghanche.
5. Nafas Wali Khan Sub-Engineer BPS-11 Municipal Committee Gahkuch Ghizer.
6. Rauf Alam Sub-Engineer BPS-11 District Council Ghizer.
7. Matloob Alam Sub-Engineer BPS-11 District Council Ghizer.
8. Najat Ali Store Keeper BPS-07 Municipal Committee Gahkuch Ghizer.

Appellants/Petitioners

VERSUS

1. Provincial Government of Gilgit-Baltistan through Chief Secretary Gilgit-Baltistan.
2. Secretary Local Government Gilgit-Baltistan, Gilgit.
3. Director Local Government & Rural Development Gilgit Region.

Respondents

**APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN
(EMPOWERMENT & SELF GOVERNANCE) ORDER 2009
AGAINST THE IMPUGNED JUDGMENT DATED 20/05/2016
PASSED BY CHIEF COURT GILGIT-BALTISTAN IN WRIT
PETITION NO.12/2016 WHEREBY THE PETITIONERS HAS
BEEN DISMISSED HOLDING THE SAME NOT MAINTAINABLE.**

Present:-

1. Mr. Johar Ali Khan, Advocate alongwith Mr. Ali Nazar Khan,
Advocate-on-Record for the petitioners.
2. Advocate General, Gilgit-Baltistan on behalf of the respondents.

Date of Hearing:- 06-09-2016.

JUDGMENT

JAVED IQBAL, J..... This petition has been directed against the impugned judgment dated 20/05/2016 passed by learned Chief Court Gilgit-Baltistan, whereby the writ petition of petitioners was dismissed. The petitioners being aggrieved filed this petition for leave to appeal. This Court vide order dated 25/5/2016 granted leave to appeal. Consequently, notices were issued to the respondents for their appearance and the case was finally heard today, and this court has reserved the judgment. After deliberations with my brothers colleague Judges, the judgment has been written accordingly.

2. Brief facts of the case, are that, the appellants were appointed on contract basis in various posts in the Local Bodies and Municipal Committee in Gilgit-Baltistan in year 2009 & 2010, by the respondents and since then appellants serving their said posts. After completion of more than 05 years on contract services, appellants filed a

departmental appeal for regularization of appellants, contented that, their appointment on basis of eligibility and qualification, and had successfully rendered their services, appellants consumed their precious time and age, at present appellants cannot get any government service due to age factor, and posts held by appellants were vacant, which to be filled on regular basis. Moreover, the appellants in departmental appeal contended that, more than 50, contract/contingent employees were regularization in year 2015.

3. That, the respondents, has not consider the grievances of appellants, rather as a malafidely reaction, advertised the posts under occupation of appellants, and invited applications from fresh candidates against the right of appellants. The petitioners ultimately filed a writ petition before the learned Chief Court Gilgit-Baltistan. The respondents contested the writ petition, and filed written reply and contended in their para wise comments that, petitioners were appointed without observing any codal formalities in shape of open advertisement.

4. The learned counsel for the appellants, contended that the petitioners served for a long period of 06 years with carefully and to entire satisfaction of respondents, and the respondents have extended their contract period from time to time on satisfactory of their services till 30-06-2016, and same department the contingent paid staff were also regularized in bulk on different dates of different districts, but the department dealt petitioners with discrimination and their services were not regularized despite of fact the posts were lying vacant. The

respondents malafidely against the right of the petitioners have advertised the dispute posts for filling up through open competition, and dealt with discrimination, and they are entitled for treatment awarded to contract contingent paid staff of the councils.

5. On the other hand the learned Advocate General Gilgit-Baltistan contended that the petitioners were appointed without observing and codal formalities in shape of open advertisement. He also contended that, it is basic conditions that, appointment should have been carried out after fulfilling all the pre-requisites and codal formalities required for regular employees, hence the advantage of the **“Contract Employees Regularization of Service Act 2014”**. Could not stretch in favour of the petitioners.

6. We have gone through the record of the case in the light of arguments before us by the learned counsel for the parties, perusal of the documents available on file would show that, initially the petitioners were appointed on contract basis against the various posts in District Union Council and Municipal Committee, in District, Ghizer, Ghanche and Astore, their office orders are attached in the case file. The record also shows that, the services of petitioners, on contract basis the respondents extended their services from time to time on the basis of entire satisfaction of competent authority, but the respondents instead of regularizing the services of the petitioners, rather when appellants become over aged, respondents advertised the posts to deprive the appellants from their right of regularization. Record also shows that,

the department has regularized the services of contingents as well as contract employees from 2010 till date more than 50 employees have been regularized except the petitioners. The counsel of the petitioners contended that, the department of Gilgit-Baltistan Local Government has no recruitment, promotion, transfer and E&D rules, the learned Advocate General given no plausible remarks against this fact. Law and justice demands that equal treatment should be given to each class of citizen so, that the vires of discrimination which is fatal for a society should be avoided.

For the reasons what have been discussed above, we allow this appeal. The impugned judgment dated 20-05-2016, in writ petition No. 12/2016, passed by learned Chief Court Gilgit-Baltistan, as well as the order of advertisement dated 09-02-2016, and 06-05-2016 to the extent of petitioners, issued by the respondents are hereby set aside. The respondents are directed to regularize the services of the petitioners forthwith.

This petition is allowed.

Appeal Allowed.

Announced:-

JUDGE

CHIEF JUDGE

JUDGE

