

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

BEFORE:

Mr. Justice Syed Arshad Hussain Shah, Chief Judge
Mr. Justice Wazir Shakeel Ahmed, Judge

CPLA UNDER OBJECTION No.40/2020

(Against the judgment dated 03.12.2019 passed by the Gilgit-Baltistan Chief Court,
Gilgit in Writ Petition No. 73/2019)

Provincial Government through
Chief Secretary & others.

Petitioners

Versus

Manzoor Ahmed s/o Wali Ullah
r/o Thak, Tehsil Chilas, District Diamer

Respondent

PRESENT:

For the Petitioners : The Advocate General Gilgit-Baltistan
Mr. Ali Nazar, Advocate on Record

Date of Hearing : **02.09.2020**

JUDGMENT

Syed Arshad Hussain Shah, Chief Judge:- This judgment shall dispose of the instant CPLA directed against judgment dated 03.12.2019 passed by the learned Gilgit-Baltistan Chief Court Gilgit, in Writ Petition No. 99/2017 whereby the judgment passed by the Courts below have been maintained.

2. The facts leading to institution of the instant CPLA are that the respondent was appointed against the post of Warder BS-05 in District Jail Diamer, Chilas on contract basis for a period of 1 year. Subsequently, the contract appointment period was further extended. Thereafter, his services as contract employee were terminated. Against termination of contractual appointment, the respondent resorted to legal remedy by way of a civil suit before the learned Civil Judge Diamer Chilas. The said suit was decreed in favour of the respondent. The petitioners felt aggrieved and filed a Civil 1st

Appeal before the learned Additional District Judge Diamer, Chilas, which was dismissed. The petitioner assailed the judgment/ decree of the Courts below before the learned Gilgit-Baltistan Chief Court, Gilgit by way of Writ Petition No. 73/2019. The learned Chief Court also dismissed the writ petition maintaining thereby the concurrent judgments/ decrees of the learned Courts below, hence the instant CPLA.

3. Arguments heard and record perused. We have also gone through the judgment/ decrees of the learned Courts below minutely. The learned Advocate General, Gilgit-Baltistan has argued that the Respondent was appointed purely on contract basis against the post of Warder BS-5 on 27.06.2013 and subsequently contract services of the respondent was extended till 25.11.2014. The learned AG, Gilgit-Baltistan has next argued that after expiry of the extended period, no further extension was granted in favour of the respondent, as such, at the time of institution of Civil Suit before the learned Trial Court, neither he was a contract employee of District Jail Diamer, Chilas, nor could he claim regularization against the said post under the Contract Regularization Act. The learned Advocate General, Gilgit-Baltistan has maintained that the learned Chief Court, Gilgit-Baltistan has failed to take into consideration these material facts before maintaining the judgments of the Courts below. On the basis of his arguments, the learned Advocate General, Gilgit-Baltistan prays for setting aside the impugned judgment passed by the learned Chief Court, Gilgit-Baltistan.

4. Before we put our view, it would be more appropriate to thrash out the fact as to whether the post against which the respondent was appointed was/is a post of permanent nature and whether the respondent was duly appointed to the said post. Admittedly, neither these facts were disputed nor denied by the petitioners before the learned Courts below. The appointment of respondent on contract against the said post is also not suffering from any illegality or procedural flaws as the respondent was fulfilling the eligibility criteria at the time of his appointment and the same

was made through adopting proper procedure as well. The record of the case does not speak of any charges/ reasons which could have necessitated termination of services of the respondent. When the respondent was rendering his services to the department concerned against the permanent post and there were no charges of any sort, then termination of his services without assigning reasons thereof is not understandable. The appointments on contract against regular posts and then extending them from time to time without regularization of their services appears to be nothing but to keep such appointees on the tenterhooks of uncertainty with the sword of termination of contract hanging over their heads. The Hon'ble Supreme Court of Pakistan has also deprecated such practice and has held that when the appointments are made against permanent post/ sanctioned post, the employer cannot put the employees on contract basis/ probation for an unreasonable long period. Our observations are further fortified by a judgment of the Hon'ble Supreme Court of Pakistan titled Nematullah Vs. Chairman Governing Body, Worker Welfare Board/ Secretary to KPK, Labor Department & others reported as 2016 SCMR 1299. For ease of reference, the relevant part is reproduced below:

2016 SCMR page 1299 (page 1308 para 15)

“As far as the contractual appointment is concerned, not only in view of the statutory rules adopted, the scope of the contractual appointment has been considerably narrowed down while on the general principle too, the employer under the statutory rules cannot put the employee on contract basis for an unreasonable longer period when the appointment is made against a permanent vacancy/ sanctioned post as this Court has deprecated this practice time and again.....Expulsion of these employees appears to be not based on bona fide but to create a room for favouritees to accommodate them because sanctioned posts unless abolished by the competent authority cannot be kept vacant”.

(Underlining supplied).

4. The second aspect of the case is the experience. Experience is more often than not a prerequisite attached to a post(s) for all the new recruitments. The appointees on contracts, who worked against a particular post in a government service for whatever period, acquire knowledge and experience of the posts held by them on contract; as such they can produce

better result and services than the new appointees. However, it has to be seen that initial appointments of such contractual appointees have been made in accordance with the method prescribed under the relevant law/rules inasmuch as such appointments were urgently required to cater for the genuine requirements of the concerned departments.

5. In view of our observations made hereinabove, we find no illegality or infirmity in the concurrent judgments passed by the learned Courts below which could call for interference of this Court. Consequently, leave in the above CPLA under Objection No. 40/2020 is refused. The judgment dated 03.12.2019 passed by the learned Chief Court, Gilgit-Baltistan in Writ Petition No. 73/2019 is maintained.

Announced
02.09.2020

Chief Judge

Judge

Whether fit for reporting (**Yes / No**)