

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

BEFORE:

Mr. Justice Syed Arshad Hussain Shah, Chief Judge

Mr. Justice WazirShakeel Ahmed, Judge

CPLA No. 93/2020

Chief Election Commissioner, Gilgit-Baltistan
(Office at River View Road besides Women Degree Collect Gilgit)

..... Petitioner

Versus

1. Muhammad Qadeer, currently serving as Executive Engineer at Water & Power Division, District Ghizer
2. Azmat Ali, currently posted as Executive Engineer at Water & Power Division Nagar
3. Eng. Riaz Hussain, Assistant Executive Engineer W&P Division Ghanche

.....Respondents

4. Government of Gilgit-Baltistan through Chief Secretary
5. Secretary Water & Power, Government of Gilgit-Baltistan

.....Proforma Respondents

CPLA No. 94/2020

Azmat Ali, currently posted as Executive Engineer (BS-18)
at Water & Power Division Nagar

.....Petitioner

Versus

1. Government of Gilgit-Baltistan through Chief Secretary
2. Secretary Water & Power, Government of Gilgit-Baltistan

..... Respondents

CPLA No. 95/2020

1. Muhammad Qadeer, currently serving as Executive Engineer (BS-18) at Water & Power Division, District Ghizer
2. Eng. Riaz Hussain, Assistant Executive Engineer (E&M/bs-17) W&P Division Ghanche

Versus

1. Government of Gilgit-Baltistan through Chief Secretary
2. Secretary Water & Power, Government of Gilgit-Baltistan

..... Respondents

PRESENT

For the Petitioners: Mr. Munir Ahmed Advocate
(CPLA No. 93/2020)

Mr. Asadullah Khan Sr. Advocate in
(CPLA Nos. 94 & 95/2020)

For Respondents: The Advocate General, Gilgit-Baltistan alongwith
Secretary W&P Gilgit-Baltistan for Prov. Govt.
(For respondents/Proforma respondents
(in all the above three CPLAs)

Mr. Asadullah Khan Sr. Advocate in
(CPLA Nos. 93/2020)

Date of Hearing : 17.06.2021

JUDGMENT

Syed Arshad Hussain Shah, Chief Judge:- Through the instant civil petitions for leave to appeal, present petitioners have called in question judgment dated 19.10.2020 passed by the learned Gilgit-Baltistan Chief Court in Writ Petitions Nos. 224/2020& 225/2020 whereby, writ petitions filed by present petitioners in CPLA No. 94 & 95/2020 were dismissed. Being aggrieved by the same judgment, CPLA No. 93/2020 has been filed by Chief Election Commissioner against certain remarks contained in the impugned judgment, though he was not party before the learned Chief Court. Since all the above three CPLAs involve similar facts and common question of law, therefore through this single judgment, we intend to dispose of all the CPLAs.

A. **CPLA 93/2020 (Chief Election Commissioner GB Vs. Muhammad Qadeer& others)**

2. While delivering the impugned judgment in Writ Petitions No. 224/2020 and 225/2020, the learned Gilgit-Baltistan Chief recoded certain observations in paras from 9 to 11 & 13 against functions of Chief Election Commissioner, Gilgit-Baltistan. For the sake of brevity, the same are reproduced herein below:

“9. It has been brought in our knowledge during the course of arguments that the Chief Election Commissioner Gilgit-Baltistan is interfering unnecessarily in the internal affairs of departments and getting the posting/transfer of government employees according to his own choice. It has further been brought in our knowledge that the concerned secretaries are threatened that non-compliance of the orders of Chief Election Commissioner will expose them to contempt of Court laws. We want to make it very clear that the powers under contempt laws are not available to Chief Election Commissioner except the matters related to interference/disturbance in election matters. Section 10 of Elections Act, 2017 is reproduced hereunder for the purpose of ready reference:

:”10. Power to punish for contempt.—The Commission may exercise the same power as the High Court to punish any person for contempt of court and the Contempt of Court Ordinance, 2003 (9V OF 2003), or any other law pertaining to contempt of court shall have effect accordingly as if reference therein to a “court” and to a “judge” were a reference, respectively, to the “Commission” and the “Commission” or, as the case may be, a member of the Commission”

10. Although the Election may exercise equal powers to a High Court in matters of contempt of Court under section 10 of Elections Act, 2017, yet it does not mean that the Commission may pock its nose in the affairs of any department to subjugate it in order to lead for a desired output by hanging the sword of contempt over them in case of deviation from the directives of the Commission irrespective of the fact whether the direction is made in good faith or to achieve personal goals. The referred section only provides powers of contempt of court to Election Commission in matters pertaining to election, and the Chief Election Commissioner cannot travel beyond the specified circle of election process in matters of contempt of court under section 10 of Elections Act, 2017. The purpose of section 10 was to bound departments to assist the Commission in election process without any excuse and

the Federal Government and Provincial Government are duty bound to provide staff and other requirements under the mandate of section 5(1)(2)(3) of ibid Act. Section 5 is reproduced as follows:

“5. Assistance to the Commission.----(1) the Commissioner or Commission may require any person or authority to perform such functions or render such assistance for the purpose of this Act as he or it may direct.

(2). It shall be the duty of all executive authorities in the Federation and in the provinces to render such assistance to the Commissioner and the Commission in the discharge of his or its functions as may be required by the Commissioner or the Commission.

(3) The Federal Government and each Provincial Government shall make available to the Commission such staff as it may require for the performance of its functions under this Act.

Section 188 of ibid Act provides punishment of two years' imprisonment or fine in case of violation of official duty in connection with election. The referred section is reproduced herein below:

“188. Penalty for violation of official duty in connection with election.---

An election official or any other person on duty in connection with an election who is guilty of an offence under section 184, section 186 or section 187 shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one hundred thousand rupees or with both”.

11. The Chief Secretary Gilgit-Baltistan is directed to ensure that in future the interference of Chief Election Commissioner Gilgit-Baltistan in the internal affairs of departments must be strictly monitored. The Chief Secretary must inform all the Secretaries under his subordination to be careful in future and not to obey any illegal order, either verbal or in writing, issued by the Chief Election Commissioner Gilgit-Baltistan, except the election matters. All the Secretaries of Gilgit-Baltistan Establishment shall submit a compliance report to the Registrar of this Court within 15 days to the effect that no transfer/postings of government employees will be carried out on the directions, consent or concurrence of Chief Election Commissioner Gilgit-Baltistan, after receipt of this judgment.:.

Being aggrieved by above remarks recorded by the learned Chief Court in the impugned judgment, the Chief Election Commissioner Gilgit-Baltistan has approached this Court with CPLA No. 93/2020. It may not be out of context to mention here that neither Chief Election Commissioner was a party to the writ petitions before the learned Chief Court nor he was called in Court and heard before passing of the impugned judgment.

B. CPLA No. 94/2020 (Azmat Ali &others Vs. Government of Gilgit-Baltistan & another)

3. In the above two CPLA, the issue is with regard to frequent and constant postings/transfers of petitioners from one station to another within a short span of time. The petitioner Azmat Ali, while performing his duties as Executive Engineer W&P Division Gilgit, was transferred to District Astore vide notification dated 5th November, 2019. After an interval of only 16 days, he was again transferred from District Astore to District Nagar vide Notification No. SWP-Admin-1(3)/2019-842 dated 21st November, 2019. In pursuance of transfer notification, the petitioner assumed his new office in W&P Division Nagar inasmuch as shifted his family to Nagar. Within one year, vide Notification No. SWP-Admin-1(3)/2020-547 dated 29.09.2020, the petitioner was again transferred and posted at W&P Division District Ghanche, meaning thereby that his transfer/posting took place thrice in a year.

C. CPLA No. 95/2020 (Muhammad Qadeer&others Vs. Government of Gilgit-Baltistan & another)

4. Same situation prevails with the CPLA in hand as that of CPLA No. 94/2020. The petitioner Muhammad Qadeer, while performing his duties as Executive Engineer W&P Division Skardu was transferred to District Ghizer vide notification dated 5th November, 2019. Vide Notification No. SWP-Admin-1(3)/2020-547 dated 29.09.2020, he was again transferred from District Ghizer to District Gilgit. The petitioner No. 2, Eng. Riaz Hussain was posted/transferred as Executive Engineer (BS-

17) to W&P Division Kharmang on his own pay and scale vide notification dated 5th November, 2019. Vide Notification No. SO(S)-1-2(39)/2020 dated 28.08.2020, the petitioner was again transferred/posted from W&P Division Kharmang to Chanche. In pursuance of notification, he assumed the charge as such. Within 25 days, respondents further transferred the petitioner from W&P Ghanche to W&P Nagar vide Notification No. SWP-Admin-1(3)/2020-547 dated 29.09.2020 meaning thereby that within a short period of 11 months, three transfers/postings of petitioner took place.

5. Being aggrieved by frequent and constant transfers/postings, present petitioners (except petitioner in CPLA No. 92/2020) approached the learned Chief Court with Writ Petition No. 224/2020 and 225/2020, which after hearing, were dismissed through the impugned judgment. Hence, the present petitioners have approached this Court with instant civil petitions for leave to appeals.

6. The learned counsel for petitioner in CPLA No. 93/2020 (Chief Election Commissioner Gilgit-Baltistan) argued that the allegations, directions and remarks passed by learned Gilgit-Baltistan Chief Court in the impugned judgment from paras No. 9, 10, 11 and 13 were arbitrary, one sided and ex-parte as the petitioner was neither summoned in the Court and heard nor any comments were sought or received from the petitioner, hence the impugned judgment was not sustainable in the eyes of law and was liable to be set aside on this score alone. It was next contended by learned counsel that impugned judgment passed by the learned Chief Court was against natural justice and principle of *audialterem partem*, as such was not maintainable and liable to be set aside. Learned counsel added that impugned judgment is against Section 4 and sub-section 4 of section 5 of Elections Act adopted/extended to Gilgit-Baltistan and that the impugned judgment was also contrary to section 181 of the Elections Act, 2017, hence the same being not maintainable in the eyes of law was liable to be set aside. The learned counsel further maintained that the learned Chief Court has no authority to restrain the Election Commission from exercising

its powers and authority for smooth conduct of free, fair transparent elections in the best public interest, whereas the impugned judgment restrained the petitioner/Election Commissioner from his lawful duties, hence the impugned judgment was not maintainable and was liable to set aside on this score too. Learned counsel next contended that the learned Chief Court without verification of information as to who had brought in knowledge of learned Chief Court that Chief Election Commissioner interfered in internal affairs of govt. departments to get postings/transfers of his own choice and went on to pass the impugned judgment, hence the same being mere assumptions of fact was not maintainable and liable to set aside. Concluding his submissions, learned counsel prayed that the impugned judgment so passed may please be set aside to the extent of remarks passed against the petitioner in para No. 9, 10, 11 and 13.

7. Learned counsel for petitioners in CPLAs No. 94 & 95/2020 and respondents in CPLA No. 93/2020 argued that the act of constant and frequent transfers of petitioners from one station to another by respondents was a clear violation of rules envisaged in Civil Servants Act, 1973 and also against the instructions contained in the Civil Establishment Code (ESTACODE), however adjudicating upon the matter and delivering the impugned judgment, the learned Chief Court overlooked this legal position, hence the impugned judgment was not maintainable and was liable to be set aside on this score alone. It was next contended by learned counsel for petitioners that as held by the Hon'ble Supreme Court in PLD 1995 SC 530 that normal period of posting of a Government servant at a station, according to rule 21 of the Rules of Business is three years, which has to be followed in the ordinary circumstances, unless for the reasons or exigencies of service a transfer before expiry of said period become necessary, while this fact was also ignored by the learned Chief Court, hence the impugned judgment was not sustainable and liable to set aside. The learned counsel maintained that as held by the Hon'ble Supreme Court of Pakistan in 2008 SCMR 105, compliance of any illegal and arbitrary order is neither binding nor valid in the eyes of law, hence notifications of constant

transfers/postings of petitioners issued by respondents were null and void, henceliable to set aside so is impugned judgment. Concluding his submissions, learned counsel for petitioners submitted that impugned judgment passed by the learned Chief Court being against the basic norms of justice and well settled principles of law, vague, absurd, perverse and based on misconception of law and facts may please be set aside.

8. We have heard arguments advanced by learned counsel for respective parties. With the able assistance of learned counsel for parties, we have also gone through record as well as the impugned judgment.

9. The civil petitions for leave to appeals herein involve two legal questions to be determined by this Court i.e. first frequent postings/transfers of petitioners in CPLAs No. 94/ & 95/2020 from one station to another within shortest period and secondly recording of adverse remarks contained in the impugned judgment against the petitioner in CPLA No. 93/2020 (Election Commissioner Gilgit-Baltistan) by the learned Chief Court without being the Election Commission GB as to party to the case or without hearing it. We would like to take up first the question as to frequent-successive postings/transfers of petitioners. It is observed that transfers of civil servant should only be considered on the basis of convenience to the general public, betterment of the institution or in the interest of public good but unfortunately, this is being used as a tool of incentive and chastisement. At times the officials are frequently transferred on the whims and caprices of politicians and others on the consideration of vested interests. We are, therefore, of the considered opinion that the civil servants at all levels must be given a minimum three-year fixed tenure in each post to encourage operational freedom within the precincts of rules and laws as the same would effectively deter outside influences from using transfers as a threatening weapon against the Civil Servants and will promote professionalism, efficiency and good governance. The premature transfer and posting of an officer, when a provision with regard to the settled tenure is available in law/rules/directives of the government, the

same is not warranted under the law unless it is justifiable and required in the public interest. The reasons for such transfer must be recorded in writing which fell under the purview of judicial review. In absence of such reasons the order so made is declared by the superior Courts of Pakistan in various cases as nullity in the eyes of law. The Supreme Appellate Court in a case titled Syed Mahmood Akhtar Naqvi v. Federation of Pakistan reported as 2013 PLD 195, has held asunder: -

"When the ordinary tenure for a posting had been specified in the law or rules made thereunder, such tenure must be respected and could not be varied, except for compelling reasons, which should be recorded in writing and were judicially reviewable---Transfers of civil servants by political figures which were capricious and were based on considerations not in the public interest were not legally sustainable."

In view of the above dictum of Supreme Court of Pakistan it is held that as far as the question with regard to the successive posting transfer of the officers is concerned, the answer to the proposition in the plain meaning is a ‘yes’, however, the same is to be tested on the principles of fair-play, justice, bona-fide and in the public interest coupled with the exigency of service as well as compelling circumstances. The competent authority can on the basis of above principles transfer an officer on administrative grounds but if the same is tainted with mala fide or any external influence or any other arbitrary reason or a reason contrary to the settled principles of transfer/posting, the same is *void ab initio*. The Supreme Court of Pakistan in a case tilted as Muhammad Ilyas Khan v. Senior Member Board of Revenue, N.W.F.P, Peshawar reported as 2011 PLC(CS) 935 has held as under:-

"Successive transfers of respondent to three stations within a span of eight months were against posting/transfer policy of Provincial Government, which indicated that a government servant should not be transferred in ordinary circumstances, prior to completion of a period of three years at one place of posting---Transfer order of respondent was passed during ban period, prematurely under political influence, as copy of the same was sent to private secretary to Provincial Minister for

Revenue---tenure of posting of an officer or official of Government to a District Government was provided in S.30(3) of North-West Frontier Province Local Government Ordinance, 2001, as three years but any officer could be transferred earlier due to exigency of service or in public interest”

The right of employee such as dislocation or transfer is accepted only when the same transfer order is passed on extraneous consideration. However, this right is not having binding force internationally and the officers cannot claim it as a matter of right to remain posted at the desired place of posting. In case title State of U.P and Ors. v. Gobardhanlal& D.B. Singh v. D.K. Shukla and Others reported as (2004)11 SCC, the Supreme Court of India while allowing and maintaining the transfer order observed in paragraph No. 7 as under:

“It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.”

10. There is no cavil to the proposition that the competent authority under the rules/law of an organization is fully empowered to transfer/post any of his subordinate to any place of posting in the interest of institution as well as in public interest on administrative grounds. We are, therefore, of the considered opinion that when an order of posting transfer passed by the authority is passed on completing the normal tenure of posting available under the relevant rules, no mala fide can be annotated to such orders. The Supreme Court of Pakistan in a case titled as Ehsan Elahi Cheema Vs Secretary Health, reported as 1999 SCMR 2482 has held as under: -

“Posting and transfer being prerogative of employer, no vested right was created in favour of civil servant to claim that he should be posted at one station unless any rule had created any right in him to remain posted at one station or had debarred administration from transferring him on same suffered from mala fides---Order of transfer of civil servant made for administrative reasons, could not be said to have suffered from mala fides particularly when he had already remained posted for more than eight years much above the normal tenure of posting of three years at a station under the rules”

Similarly, the Supreme Court of India has observed similar observation and in a case titled Gujrat Electricity Board &Anr. v Atmaram Sungomal Poshani reported in AIR 1989 SC 1433, as under: -

“Transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the other is an incident of service. No Government servant or employee of Public Undertaking has legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the Public administration”

Conversely, when the posting/transfer orders of a civil servant are being issued successively, without assigning and recording any cogent reason in disregard and departure to the settled principle of tenure period, the same is neither justified nor defensible in the eyes of law. Such practice can be

attributed and tainted with arbitrary exercise of powers by the authority. The Supreme Court of Pakistan in case title Secretary, Education Department, Lahore v. Nasim Akhtar reported as 1998 SCMR 557 has held as under: -

“Civil servants were generally permitted to complete their normal tenure in case of transfer from one place to another-Civil servant had earlier been posted as District Education Officer vide order dated 29-7-1993, therefore, uprooting of civil servant from such post vide order dated 10-8-1994, was deviation from such normal procedure for which even reasons were not assigned---Order of transfer, thus, smacked of arbitrariness---Service Tribunal had acted justly and properly under circumstances of case, warranting no interference---Leave to appeal was refused in circumstances”

The juxtaposition of the above case law is that the Court, in exercise of its power of judicial Review, is empowered to examine the executive authority with regard to the frequent posting and transfers of the civil servants when the same is tainted with mala fide or any other consideration other than the public interest or the exigency of service. The Supreme Court of Pakistan in case reported as 2006 SCMR 160 has held as under: -

“when a transfer is made contrary to the relevant rules and against the public interest and without allowing the officer to complete his tenure, the court is empowered to examine such administrative action by applying the principle of judicial review”

Similarly when the transfers are made in the public interest and not influenced with any superfluous consideration, the Court has no right to disturb such order and shall not interfere in the matter. The Supreme Court of Pakistan in a case titled Sher Muhammad v. KhurshidJehan Begum reported as 1998 SCMR 1293 has held as under: -

“that transfer order was made for administrative reasons in public interest and not for extraneous considerations---Employee was liable to be transferred anywhere in exigencies of service, having no vested right of his choice for a specific place---Employee, additionally, had continued to serve for

period of about 5 years before his transfer was ordered---Employee, therefore, could not plead that he was prematurely transferred---Employee was not holding tenure post, therefore, his transfer from place "Q" to "L" was not violative of principles laid down for transfer of employees"

11. Now we come to address the arguments of the learned counsel for the petitioner in CPLA NO. 93/2020 with regard to the passing of remarks by the Chief Court. There is an inveterate rule, based on a basic maxim of jurisprudence and is being observed by the superior Court in the world. The maxim "*audialteram partem*" is the basic structure of the modern design of the process of administration of justice and any deviation thereto, in criminal as well as civil administration of justice, is considered a foul. No one can be condemned unheard and the same is recognized as a basic fundamental right of every citizen of Pakistan. The remark so passed by the Chief Court would reflect upon the functioning and working of the concerned. This might cause incurable loss to one's reputation etc. The superior Courts in Pakistan have repeatedly recognized this right and volume of case law is available on the subject. One case law, in the case titled Government of Khyber Pakhtunkhaw. Muhammad Khurshid reported as 2021 SCMR169, for convenience is reproduced hereunder: -

*"Any proceeding arising out of equity could not be decided without providing opportunity of hearing---Court ought to follow the principle of '*audialteram partem*' and '*due process*' which were basis of administration of justice, especially when any order, if passed, might affect the rights of the entity not party to the proceedings"*

Passing of remarks against a statutory functionary in a lis where such person is not a party to the lis is undesired and miscarriage of justice. The principle of judicial restrain must be applied in such matters for the reason that such matter would not only harm the concerned person but the institutions will also suffer which would ultimately result in lack of trust in general public. The courts, therefore, must remain very vigilant and must apply their judicious mind in such circumstances rather running their

horses on their desires. The Supreme Court of Pakistan in a case titled AmanUllah Khan v Federal Government of Pakistan reported as PLD 1990 SC 1092, held as under: -

“No adverse comments are to be made against a statutory functionary unless it is impleaded as a party in the proceedings or appears as a witness in the proceedings”

Such practice is disliked in all sort of cases. In a case titled LDA v. Imram Tawana, reported as 2015 SCMR 1739, the Hon’ble Supreme Court of Pakistan has held as under:

“Supreme Court observed that such remarks undoubtedly caused reputational damage; that the temptation to adopt such a course must be avoided except in the rarest of rare cases, and even then the reasons for making such remarks must be carefully and clearly stated; that the disparaging remarks in the present case had been made by the High Court without a word of explanation as to what occasioned them---Supreme Court directed that disparaging remarks in question contained in impugned judgment of the High Court should be expunged”

The Hon’ble Supreme Court of Pakistan in another case titled Muhammad Punhal v. Abdul Wahid Abbasi reported as 2003 SCMR 1406 held as under:

“Appellate or Revisional Court should be very careful in passing remarks in respect of the conduct of the officer specifically when he was not given opportunity of hearing”

As far as the question with regard to power to Election Commissioner is concerned, all the authorities are required to assist the Chief Election Commissioner in performance of his function under the Elections Act, 2017. Section 5 of the ibid Act provides as under: -

“5. Assistance to the Commission.— (1) The Commissioner or the Commission may require any person or authority to perform such functions or render such assistance for the purposes of this Act as he or it may direct.”

The power of Chief Election Commissioner with regard to transfer/posting of officer is provided under Section 181 (2)(f) of the Act which provides as under: -

“181. Prohibition of announcement of development schemes.

No Government functionary or elected representative including a local government functionary or elected representative, shall announce any development scheme for a constituency after the announcement of the Election Programme of that constituency.

(2) The caretaker Government shall not—

- (a)*
- (b)*
- (c)*
- (d)*
- (e)*

(f) transfer public officials unless it is considered expedient and after approval of the Commission; and

- (g)*

The plain reading of above provision clearly declares the mandate of Chief Election Commissioner with regard to the transfer/posting of the public officials and no deviation can be made to this provision. The Supreme Court of Pakistan in case titled *Khawaja Muhammad Asif Vs Federation Of Pakistan* reported as PLD 2013 SC 195, has held as under: -

“Caretaker government was required to perform its functions to attend to the day-to-day matters, which were necessary to run the affairs of the State and also to watch the national interests, etc.---Caretaker government had to exercise its powers for a limited purpose, providing assistance to the election Commission in organizing free, fair, honest and just elections in the country”

12. This Court on 06.04.2021 had set aside all the notifications as well as the impugned judgment. The said order is reproduced as under:

ORDER DATED 06.04.2021

The learned counsel for the parties have been heard at some length.

2. Civil Misc. Applications Nos. 101, 102 & 103/2020 filed for suspension of operation of the

impugned judgment are allowed. In consequence whereof, the operation of the impugned judgment dated 19.10.2020 passed by the learned Gilgit-Baltistan Chief Court in Writ Petition Nos. 224/2020 and 225/2020 is suspended till the next date of hearing. The transfer/posting Orders of Mr. Muhammad Qadeer XEN, Mr. Azmat Ali, XEN and Mr. Riaz Hussain, Assistant Executive Engineer are also suspended and they are restored to their original place of postings.

13. Foregoing in view, we convert the above CPLAs NO. 93, 94 & 95/2020 into appeals and the same are allowed. The impugned judgment dated 19.10.2020 passed by the learned Gilgit-Baltistan Chief Court in Writ Petitions No. 224 & 225/2020 is set aside. The disputed Notifications of postings/transfers to the extent of petitioners namely, Azmat Ali, Executive Engineer (BS-18), Muhammad Qadeer, Executive Engineer(BS-18) and Eng. Riaz Hussain, Executive Engineer on his own pay scale (AEE BS-17) are set aside. The impugned remarks recorded by the learned Chief Court in the impugned judgment in paras 9, 10, 11 and 13 are also set aside/expunged. These were the reasons of our short order dated 17.06.2021 which is reproduced below:

“Case heard and record perused. For the reasons to be recorded later, we convert the above CPLAs No. 93, 94, 95/2020 into appeals and the same are allowed. Consequently, the impugned judgment dated 19.10.2020 passed by the learned Gilgit-Baltistan Chief Court in W.P. No. 224/2020 is set aside”.

Chief Judge

Judge

Whether fit for reporting (Yes / No)