

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

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.
Mr. Justice Shahbaz Khan, Judge.**

**C. Misc. No. 20/2015
C. Appeal No. 34/2015
in
CPLA. No. 98/2015.**

1. Manshah Ali Khan son of Muhammad Ali Khan Assistant Warden Fisheries.
2. Syed Shahauddin Shah Son of Salamuddin Shah Assistant Warden Fisheries.

Petitioners.

Versus

1. Provincial Government through Chief Secretary Gilgit-Baltistan.
2. Secretary Agriculture, Livestock and Fisheries Gilgit-Baltistan.
3. Secretary Services Gilgit-Baltistan.
4. Director Fisheries, Gilgit-Baltistan.
5. Deputy Director, Fisheries, Gilgit-Baltistan.
6. Masood Iqbal son of Sarfraz Khan Fisheries Supervisor (BPS-9) Chilas.

Respondents.

PETITION FOR LEAVE TO APPEAL AGAINST THE IMPUGNED JUDGMENT/ORDER DATED 15.05.2013 OF WRIT PETITION OF RESPONDENT NO. 06 AND IMPUGNED JUDGMENT/ORDER DATED 11.12.2013 OF LEARNED GILGIT-BALTISTAN CHIEF COURT IN REVIEW PETITION WHEREBY THE LEARNED GILGIT-BALTISTAN CHIEF COURT HAS ACCEPTED THE WRIT PETITION OF RESPONDENT NO. 06 AND DISMISSED THE REVIEW PETITION OF THE PETITIONERS.

PRESENT:-

1. Mr. Amjad Hussain Advocate for the petitioners.
2. The Advocate General Gilgit-Baltistan for Provincial Government.
3. Mr. Malik Shafqat Wali senior Advocate alongwith Mr. Munir Ahmed Advocate on behalf of the respondent No. 06.

DATE OF HEARING: - 24.06.2016.

DATE OF DETAIL JUDGMENT:- 21.07.2016.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has been arisen out of the Impugned Judgment/order dated 15.05.2013 in Writ Petition No. 49/2010 as well as the judgment/order dated 11.12.2013 in Review Petition passed by the learned Gilgit-Baltistan Chief Court, whereby the Civil Misc. No. 108/2013 filed by the petitioners was dismissed being time barred. The petitioners being aggrieved filed this petition for leave to appeal. This court vide order dated 27.10.2015 issued notices to the respondents for their appearance and the case was heard on 24.06.2016.

2. The brief facts of the case are that the petitioners were performing their duties in the department of Fisheries Gilgit-Baltistan as Assistant Wardens. The respondent No. 01 to 05 promoted the petitioners as Assistant Warden (BPS-11) against the lying vacant posts. The respondent No. 06 feeling aggrieved filed Writ Petition No. 49/2010 in the learned Gilgit-Baltistan Chief Court which upon hearing was allowed and the impugned order dated 02.07.2010, 05.07.2010 and 25.10.2010 issued by the respondent No. 10 to 05 were set aside. The petitioners being aggrieved by and dissatisfied filed Review Petition No. 108/2013 which was also dismissed being barred by time.

3. The learned counsel for the petitioners contends that petitioners were performing their duties in the department of Fisheries as Assistants Wardens. He further contends that the petitioner were promoted against the vacant posts of Assistant Warden BPS-11 by the respondents meanwhile the respondents No.

06 filed Writ Petition before the learned Chief Court, Gilgit-Baltistan. He further contends that the learned Chief Court Gilgit-Baltistan vide its Impugned Judgment dated 15.05.2013 without hearing the petitioners accepted the writ petition of respondent No.6. He further submits that the impugned judgment has been passed without hearing the petitioners therefore the same is not sustainable. The learned Chief Court Gilgit-Baltistan did not apply its judicial mind while passing the impugned Judgment as the writ Petition No. 49/2010 by the respondent was barred by the principle of res-judicata. He also contends that the respondent No. 06 had earlier filed a Writ Petition No. 27/2013 which was dismissed by the learned Gilgit-Baltistan Chief Court. The respondent No. 06 has concealed that fact from the court and had subsequently filed Writ Petition No. 49/2010 and got the impugned order in his favour which was not maintainable and the same required to be set aside in the interest of justice.

4. On the other hand, Mr. Malik Shafqat Wali senior Advocate alongwith Mr. Munir Ahmed Advocate appearing on behalf of respondent No. 06 and the learned Advocate General support the judgment dated 15.05.2013 and impugned order dated 11.12.2013 passed by the learned Chief Court Gilgit-Baltistan in Writ Petition No. 49/2010 and Civil Misc. No. 108/2013 respectively. They submit that the respondent No. 06 was entitled for promotion being senior to the petitioners at seniority list. They further submit that the respondent No. 06 was fulfilling all the codal formalities for the

promotion against the posts of Assistant Warden BPS-11 i.e. educational qualification and length of service and the impugned post was also a feeding post. They further submit that the learned Gilgit-Baltistan Chief Court has rightly allowed the Writ Petition No. 49/2010 vide judgment dated 15.05.2013 and impugned order dated 11.12.2013 in Civil Revision Petition No. 108/2013. They also submit that the impugned order dated 11.12.2013 passed by the learned Gilgit-Baltistan Chief Court may graciously be maintained being well reasoned and well founded.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned order dated 11.12.2012 in Civil Revision No. 108/2013 in Writ Petition No. 49/2010 passed by the learned Gilgit-Baltistan Chief Court. Admittedly, the respondent No. 06 was entitled for promotion against the post of Assistant Warden BPS-11 being at serial No. 01 of the seniority list and he was fulfilling the requisite conditions for the promotion against the said post. The learned counsel for the petitioners could not point out any illegality/infirmity in the impugned orders/judgments.

6. In view of the above discussions, we converted this petition into an appeal and the same was dismissed vide our short order dated 24.06.2016. Consequently, the impugned judgment/order dated 15.05.2013 in Writ Petition No. 49/2010 passed by the learned Chief Court Gilgit-Baltistan as well as the judgment/order dated 11.12.2013 in Review Petition No. 108/2013

passed by the learned Chief Court Gilgit-Baltistan are maintained. These were the reasons of our short order dated 24.06.2016.

7. The petition is dismissed in above terms.

Chief Judge.

Judge.

Judge.

Whether the case is fit to be reported or not?