

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

Before:-

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

**Civil Appeal No. 69/2016
In
CPLA No. 90/ 2016**

Provincial Government & others

Petitioners.

Versus

Abdul Manaf s/o Muhammad Musa R/O Chorit Astore

Respondents.

PRESENT:-

1. The Advocate General alongwith Mr. Saeed Iqbal, Deputy Advocate General and Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Muhammad Iqbal Advocate alongwith Mr. Johar Ali Khan Advocate-on-Record for respondent.

DATE OF HEARING: - 10.04.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This appeal has been directed against the impugned judgment dated 27.04.2016 in Writ Petition No. 36/2015 passed by the learned Chief Court whereby the said Writ Petition filed by the petitioner was accepted by directing the petitioners to change/revert the contingent service of the respondent into contract from 1st December, 2014 alongwith pay benefits and also directed the petitioners to appoint/adjust the respondent against the post of SUC BPS-07 on regular basis. The petitioners being aggrieved by and dissatisfied with, filed this petition for leave to appeal. This court vide order dated 26.09.2016

granted leave to appeal. The notice was issued to the respondent and the case is heard today.

2. Briefly, the facts of the instant proceedings are that the respondent was initially appointed as contingent paid staff against the post of LDC BPS-05 in the office the Deputy Director LG&RD District Astore vide Office Order dated 10.04.2005. Later on, the contingent services of the respondent were converted into contractual services as SUC BPS-07 by the Director LG&RD Gilgit Region for a period of one (01) year vide Office Order dated 01.04.2014. After expiry of the said period, the services of the respondent were again converted into contingent paid basis at a fix pay of Rs. 8000/- per month vide Office Order dated 01.12.2014. Being aggrieved by and dissatisfied with, the respondent filed Writ Petition No. 36/2015 in the learned Chief Court. Upon hearing, the learned Chief Court accepted the said writ petition. Feeling aggrieved, the petitioners filed this petition for leave appeal.

3. The learned Advocate General submits that the respondent was engaged on contingent basis to look after the office work till appointment of regular employee after advertisement and test/interview. He also submits that since factual controversy is involved in this case which can only be resolved after recording evidence. Further an alternate remedy was/is available to the respondent which he has not availed. Further, no departmental appeal has been filed by the respondent. Per learned Advocate General, the writ does not lie in circumstances. He further submits

that the competent authority i.e. the then Chief Secretary Gilgit-Baltistan has directed to advertise the posts from BPS-01 to 05 from the respective Union Councils. He adds that the suit post was vacant in Union Council Qamri while the respondent belongs to Union Council Rehmanpore as such in presence of directives of the competent authority, the respondent could not be adjusted against the said post. He submits that the learned Chief Court fell in error while passing the impugned judgment dated 27.04.2014, hence, the same is not tenable in law. He prays that the said impugned judgment may graciously be set aside.

4. On the other hand, the learned counsel for the respondent supports the impugned judgment passed by the learned Chief Court. He contends that many posts of SUSSs were created for District Astore and the same were initially filled in by appointing on contingent basis. Per learned counsel, the other contingent colleagues of the respondent were appointed/adjusted against the post on regular basis but the respondent was ignored by the petitioners inspite of the recommendation of petitioner No. 05 i.e. Deputy Director, LG&RD District Astore. He reiterates that the petitioners instead of regularizing the services of the respondent, changed his services into contractual basis but later on his contractual status was again changed into contingent before ending of the expiry of contractual period. He submits that the learned Chief Court has rightly accepted the Writ Petition of the respondent.

He prays that the impugned judgment passed by the learned Chief Court may pleased be maintained to meet the ends of justice.

5. We have heard the learned counsels for the respective parties at length, perused the materials on record and gone through the impugned judgment passed by the learned Chief Court. The careful perusal of the case file transpires that the respondent has been appointed as SUC BPS-07 on contract basis against the vacant post for a period of one (01) year by an unauthorized officer i.e. Director LG&RD Gilgit Region who admittedly was/is not competent to appoint the respondent. We are in agreement with the contentions raised by the learned Advocate General. In our considered view, the learned Chief Court fell in error while passing the impugned judgment which is not tenable in law.

6. In view of the above discussions, we allow this appeal. Consequently, the impugned judgment dated 27.04.2016 in Writ Petition No. 36/2015 passed by the learned Chief Court is set aside. The respondent may approach the competent court of law for redressal of their grievances, if he so advised.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.