

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

## **Before:**

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

## **Civil Appeal. No. 04/2015**

In

**CPLA. No. 21/2015.**

Bashir Ahmed Assistant Executive Engineer District Diamer  
**Petitioner.**

# Versus

Provincial Government & 05 others

## **Respondents**

## **PRESENT:-**

1. Malik Shafqat Wali Senior Advocate alongwith Mr. Rehmat Ali Advocate-on-Record for the petitioners.
  2. The Advocate General alongwith Mr. Behram Khan Advocate on behalf of the respondents.

**DATE OF HEARING: - 03.04.2017.**

## **JUDGMENT.**

**Dr. Rana Muhammad Shamim, CJ.....** This petition for leave to appeal has arisen out of the impugned judgment dated 18.11.2014 in Service Appeal No. 402/2014 passed by the learned Gilgit-Baltistan Service Tribunal whereby the appeal of the petitioner was dismissed being not maintainable. This court vide order dated 14.04.2015 granted leave to appeal and the case was finally heard today on 03.04.2017.

2. Briefly the facts of the case are that the petitioner was appointed on 01.07.1978 as Sub-Engineer/Overseer BPS-09 in the Water & Power Department Northern Areas, Gilgit. Subsequently, he was promoted in BPS-16 in the year 1991 in the said Department. Later on the petitioner was further promoted as

Assistant Executive Engineer BPS-17 on 05.08.2011. Whereafter he was assigned additional charge of Executive Engineer BPS-18. The said order was not materialized as his promotion was approved by the DPC as Executive Engineer on 06.11.2013. No Notification was issued due to filing of representation by the respondents consequently the respondent No. 01 withdrew the order dated 28.05.2012 regarding the promotion of the petitioner as Executive Engineer. The petitioner being aggrieved filed Service Appeal in the learned Gilgit-Baltistan Service Tribunal which upon hearing was dismissed by declaring the same not maintainable.

3. The learned counsel for the petitioner submits that the petitioner being senior most Assistant Executive engineer was entitled for his promotion as executive engineer BPS-18. He also submits that two (02) posts of Executive engineer were vacant and the petitioner was recommended by the DPC subsequently the same was cancelled by the respondents which is illegal and unlawful. He further submits that the petitioner filed appeal/representation to the learned Chief Minister Gilgit-Baltistan which was also turned down by maintaining the order dated 28.05.2012 issued by the learned Chief Secretary Gilgit-Baltistan. Per learned counsel on 28.05.2012 the working paper of the petitioner was again submitted by the Department for DPC and the meeting was convened on 06.11.2013. The petitioner alongwith two (02) others Assistant Executive Engineers were promoted as Executive Engineers BPS-18. He submits that the minutes of the said meeting were misplaced

intentionally and malafidely resultantly no proper Notification could be issued in this regard, however, the local newspapers published the said news. The learned counsel for the petitioner adds that later on the proforma respondents filed a declaratory suit in the learned Civil Court Gilgit against the preparation of the working papers and DPC. During the pendency of the said suit the establishment of the learned Gilgit-Baltistan Service Tribunal came into existence. Subsequent thereto the case of the respondents was transferred to the learned Service Tribunal which was later on dismissed as withdrawn by them. The petitioner filed a fresh appeal in the learned Service Tribunal which upon hearing was dismissed. He finally submits that the impugned judgment dated 18.11.2014 in Service Appeal No. 402/2014 passed by the learned Service Tribunal is the result of non-appreciation of the facts of the case, therefore, the same is not sustainable.

4. On the other hand, the learned Advocate General supports the impugned judgment passed by the learned Service Tribunal. He contends that the petitioner was a Diploma holder who did not fulfill the requisite criteria for promotion as Executive engineer BPS-18. Moreover, the petitioner was lacking the requisite length of service thereto for his promotion against the said post. He also contends that the acting charge of Executive Engineer BPS-18 Water & Power Department was assigned on the basis of the seniority as the respondent No. 06 & 07 were senior than the petitioner. The respondent No. 06 to 10 were appointed in the

month of May, 2009 as Assistant Executive Engineers BPS-17 on the recommendation and selection of the Federal Public Commission Islamabad whereas the petitioner was promoted to the post of Assistant Executive Engineer BPS-17 on 5<sup>th</sup> August, 2011 as such the petitioner was not senior than the respondent No. 06 to 10. He reiterates that the working papers were prepared for the promotion of eligible incumbents of BPS-17 of Gilgit-Baltistan Power Department for the two posts of Executive Engineers BPS-18. Per the learned Advocate General at that time the petitioner as well as the respondents No.6 & 7 were not fulfilling the conditions for promotion i.e. seniority cum fitness. He further contends that the respondent Nos. 6 & 7 are senior according to the circulated seniority list, as the name of the petitioner stands at Serial No.8 while respondent No. 6 & 7 are placed at serial No.1 to 5, therefore, the chairman and Members of DPC declared the promotion case of the petitioner and respondents No. 6 &7 premature. He adds that the appeal of the petitioner was miserably barred by time for a period of two (02) years. The learned Advocate General finally contends that the learned Service Tribunal has rightly dismissed the appeal of the petitioner. Per learned Advocate General the said impugned judgment is well reasoned and well founded being passed in accordance with law and facts of the case.

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 judgment dated 18.11.2014 passed in Service Appeal No. 402/2014 by the learned Service Tribunal.

6. The careful perusal of the case file reveals that the petitioner was not only fulfilling the requisite mandatory criteria for his promotion against the impugned post but also lacking of the requisite length of service. Admittedly, the appeal of the petitioner was barred by time for a period of two years. We are in agreement with the learned Advocate General that the impugned judgment dated 18.11.2014 passed in Service Appeal No. 402/2014 by the learned Gilgit-Baltistan Service Tribunal is well reasoned and well founded, hence, no interference is warranted into it.

7. In view of the above discussions, we dismiss this appeal. Consequently, the impugned judgment dated 18.11.2014 passed in Service Appeal No. 402/2014 by the learned Service Tribunal is affirmed.

8. The appeal is dismissed in above terms.

**Chief Judge.**

**Judge.**

**Whether the case is Fit to be reported or Not?**