

**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.25/2018
In
CPLA No. 84/2014**

Vice Chancellor Karakorum International University & others.

Petitioners.

Versus

Nisar Alam son of Muhammad Ayub Lecturer Department of Economics KIU Gilgit.

Respondent.

PRESENT:-

1. Mr. Javed Akhtar advocate for the petitioners.
2. Mr. Shakoor Khan Advocate for the respondent.

DATE OF HEARING: - 05. 06.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Appeal has been directed against the impugned order dated 03.06.2014 in Civil Misc No. 207/2013 passed by the learned Chief Court whereby the said Civil Misc. filed by the respondent was accepted with the directions to the petitioners to implement the Judgment dated 25.10.2010 in Writ Petition No. 03/2010 passed by the learned Chief Court. Consequently, the petitioners implemented the said judgment during the Court working hour by appointing the respondent as Lecturer BPS-18 on permanent basis. They, however, filed CPLA No. 84/2014 for setting aside the said impugned order. This Court vide order dated 06.09.2016 issued notice to the respondent and the case is heard today.

2. Briefly, the facts of the case are that the respondent was initially appointed as Lecturer in Karakorum International

University on 07.03.2008 on contract basis for a period of two years. The services of the respondent were terminated on 24.09.2008 on account of violation of the Service Rules. Consequently, he preferred a departmental appeal before the Review Committee of KIU which was accepted and he was re-instated on his contractual service with some extra conditions. The respondent accepted the said conditions and joined his contract services on 01.02.2009. During the contractual Services of the respondent, the petitioners advertised some posts of lectures in the daily newspaper K-2 dated 30.12.2009 for appointment as per Rules of KIU Gilgit-Baltistan. The respondent & twenty one (21) others being aggrieved by and dissatisfied with the said advertisement filed Writ Petition No. 03/2010 in the learned Chief Court which upon hearing was accepted vide judgment dated 25.10.2010. During the pendency of the said Writ Petition in the learned Chief Court, the contractual service of the respondent was again terminated on 06.07.2010 by the competent authority of the KIU on account of his involvement in sexual harassment and misconduct. The petitioners brought the termination of the respondent into the notice of the learned Chief Court vide letter dated 30.08.2010 as the said termination order dated 30.08.2010 was not challenged by the respondent before the learned Chief Court through Writ Petition No. 03/2010.

3. The learned counsel for the petitioners submits that on 03.06.2014 during the preliminary hearing of the Civil Misc No. 204/2014 filed by the respondent in the learned Chief Court, the

petitioners requested for an adjournment which was turned down by the learned Chief Court. The case was heard without giving an opportunity of hearing to the petitioners, hence, the impugned order is not tenable. He also submits that judgment dated 25.10.2010 passed in Writ Petition No. 03/2010 by the learned Chief Court is the result of the mis-interpretation of the Judgment dated 29.04.2010 passed by this apex Court while hearing a petition filed by the lecturers of KIU wherein the respondent was not a party. He further submits that in compliance of the judgment of this apex Court wherein a criteria for appointment/adjustment was devised. In line with the said judgment of this apex Court all the petitioners were adjusted/appointed on regular basis except the respondent (Nisar Alam) who was not on the roll of KIU at that time, therefore, his services could not be regularized. He submits that the contractual service of the respondent was again terminated on 06.07.2010 by the competent authority of the KIU on account of his involvement in sexual harassment and misconduct which has not been challenged by the respondent in any competent court of law, hence, the order dated 06.07.2010 issued by KIU authorities holds field. Per learned counsel, the respondent on 29.10.2013 after lapse of three years after passing the Judgment dated 03.06.2014 by the learned Chief Court filed CMA No. 207/2013 in Writ Petition No. 03/2010 for implementation which upon hearing was allowed without hearing the petitioners vide the impugned order, hence, the same is not tenable and liable to be set aside.

4. On the other hand, the learned counsel for the respondent contends that since the petitioners have not implemented the Judgment dated 25.10.2010 passed in Writ Petition No. 03/2010 despite lapse of three years, therefore, the respondent was constrained to file the said Execution Petition for getting implement the judgment dated 25.10.2010 passed by the learned Chief Court. Upon hearing, the learned Chief Court, has rightly accepted the said execution petition through the impugned order. Consequently, the services of the respondent have been regularized on 25.10.2010 but the arrears/back benefits on account of pay/allowances have not been paid to him instead of the orders passed by the learned Chief Court, hence, the respondent filed contempt petition in the learned Chief Court which upon hearing was refused to be admitted for regular hearing by the learned Chief Court vide impugned judgment dated 25.12.2015 passed in Civil Misc. No. 325/2015. The respondent has challenged the said impugned order in this Court which is also pending adjudication. Per learned counsel, the learned Chief Court did not consider that despite the appointment of the petitioner/respondent w.e.f 25.10.2010, he has been deprived from his legitimate right of arrears against the said period on account of pay & allowances. He submits that the learned Chief Court fell in error while passing the impugned judgment dated 15.12.2015 in Civil Misc. No. 325/2015, therefore, the same is not tenable. He prays that the said impugned judgment passed by the learned Chief Court may pleased be set

aside by directing the KIU authorities to pay the arrears/back benefits to the petitioner/respondent.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned order dated 03.06.2014 in Civil Misc No. 207/2013. The perusal of the case file transpires that the judgment dated 25.10.2010 passed in Writ Petition No. 03/2010 by the learned Chief Court has not been challenged either before this court or before the learned Chief Court by filing Review Petition by the petitioners, hence, the said judgment has got finality which had to be implemented by the KIU authorities in its letter and spirit. The respondent was constrained to file the execution petition for implementation of the said judgment which was rightly accepted by the learned Chief Court vide its well reasoned impugned order dated 03.06.2014. As far as the termination dated 06.07.2010 issued by the petitioners during the pendency of the Writ Petition in the learned Chief Court is concerned, the said termination is admittedly an administrative order which cannot override the order of the Court. It is rather overridden by the order of the Chief Court with the observations that there is no adverse remarks against any of the petitioners/respondent. Further, the learned counsel for the petitioner could no point out any illegality and infirmity in the impugned order passed by the learned Chief Court, therefore, no indulgence is warranted into it by this court.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned order dated 03.06.2014 in Civil Misc No. 207/2013 passed by the learned Chief Court passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.