

**IN THE SUPREME APPELLATE COURT, GILGIT-BALTISTAN
(Original Jurisdiction)**

SMC 16 & 17/2010
(Up-gradation of Judicial Officers/Staff and Allowances)

Registrar and Deputy Registrar Gilgit-Baltistan Chief Court.
Advocate General Gilgit-Baltistan.
Mr. Muhammad Issa, Amicus Curie.

Order Dated 07-10-2010

This Suo Motu Case to the extent of matter in respect of up-gradation of Judicial Officers of the Subordinate Judiciary in Gilgit-Baltistan has already been disposed of vide Order dated 16.11.2009. Whereas, the question relating to the status of District, Ghizar, Chanchay and Astore as Sessions Division was kept pending for the comments of Chief Court and Law and Prosecution Department Government of Gilgit-Baltistan which have been submitted. The Registrar, Chief Court Gilgit-Baltistan and Mr. Hafiz-Ur-Rehman, Secretary Law, Government of Gilgit-Baltistan also appeared in Court.

- The comments of the Registrar, Chief Court Gilgit-Baltistan are reproduced hereunder: -

**NO.CC-E-4/2010
GILGIT-BALTISTAN CHIEF COURT
GILGIT**

To,

The Registrar
Supreme Appellate Court

Gilgit.

Subject: **S.M.C NO.17/2009 (UP GRADATION OF JUDICIAL OFFICERS/STATUS OF SESSIONS DIVISON)**

With reference to your letter No. S.M.C. No. 17/2009 dated 6-7-2010 on the subject cited above. Report regarding the up gradation of Sessions Divisions is submitted as desired please:

There were five declared Sessions Divisions in the Gilgit-Baltistan till 8-7-2003 and five District & Sessions Judges were functioning in each Sessions Division. The post of District & Sessions Judges at that time was in BPS-20. On the retirement of three District & Sessions Judges, three posts were lying vacant. The vacant posts were required to be filled 100% by promotion as per prevailing rules. At that time, the civil Judges in the Gilgit-Baltistan were in BPS-17 and not qualified to be lack of their length of service. There was no feeding post in BPS-18/19 at that time. The competent authorities have considered to promote the Civil Judges BPS-17 to BPS-18 by downgrading the above three posts of District & Sessions Judges BPS-20 as Additional District & Sessions Judges in BPS-19.

The purpose of down-gradation of three Sessions Divisions was out to promote the Civil Judges as Additional District & Sessions Judges in order to cover the length of service, therefore, the Ministry of KA/NA Division has downgraded the three Sessions Divisions vide Notification dated 8-7-2003 (copy attached).

After down gradation of three posts of District & Session Judges as Additional District & Session Judges, three Civil Judges have been promoted against the said down graded posts.

Thereafter three posts of Additional District & Sessions Judges BPS-19 have also been created in the Northern Areas, therefore, now three posts of Additional District Sessions Judges are existing as feeding posts for promotion to the posts of District & Sessions Judges. The purpose of down-gradation of the Sessions Divisions has ended. The down graded Sessions Divisions are required to be up-graded to avoid illegalities in taking direct cognizance of cases by the Additional District & Sessions Judges.”

- The report of Law and Prosecution Department, Government of Gilgit-Baltistan is read as under: -

**“GOVERNMENT OF GILGIT-BALTISTAN
GILGIT-BALTISTAN SECRETARIAT
(LAW & PROSECUTION DEPARTMENT**

AL-1(12)/SAC/210.
Gilgit the 3rd august, 2010

Subject: **S.M.C. NO.17/2009 (UP GRADATION OF JUDICIAL OFFICERS/STATUS OF SESSIONS DIVISON.)**

Please refer to your letter No.CC-E-4/2010 dated 12th June, 2010 on the subject noted above.

The requisite report is as under:-

2. Prior to 8th July, 2003, there were five declared Sessions Divisions i.e Gilgit, Skardu, Diamer, Ghizer and Ghanche, in Gilgit-Baltistan. At that time, the posts of District and sessions Judges were up-graded and placed in BS-20. Due to retirement of three District and Sessions Judges, the vacant posts of the incumbents were required to be filled 100% by promotion under the prevailing Recruitment and Promotion Rules. At that time the posts of Civil Judges were in BS-17 and were not eligible for promotion to the vacant post of three District and Session Judges BS-20 for want of qualifying service coupled with non-existence of the feeding posts of additional District & sessions Judges BS-19 for promotion to the vacant posts of District and sessions Judges BS-20.

3. The then Chairman Chief Court NAs (Mr. Justice Muzaffar H.Malik) had proposed to downgrade the post of District and Sessions Judge Ghizer, Ghanche, and Diamer instead of seeking condonation of deficiency in qualifying service in favour of the three Civil Judges from the then Chief Executive NAs (Federal Minister KA & NA division) under Rule 5 serial No.8 Schedule III of the Northern Areas Rules of Business, 1994. The proposal of Chairman Chief Court for downgrading of three Sessions divisions was approved by KA&NA Islamabad on 08-07-2003 and three Civil Judges were promoted to the downgraded post of additional District &Sessions Judges BS-19. The GB administration has never recommended for downgradation of any Sessions division. It is also pertinent to mention here that the three Additional Sessions Judges i.e Ghizer, Ghanche, and Astore, have been taking cognizance of criminal case in violation of procedural law of Cr.P.C.”

- Mr. Hafiz-ur-Rehman Secretary, Law and Prosecution Department, Government of Gilgit-Baltistan stated that the Government of Gilgit-Baltistan has never recommended down gradation of Sessions Divisions and the charge of Session Divisions with Additional District and Sessions Judges in districts Ghizar, Ghanche and Astore is in violation of law. The Registrar, Chief Court also taking similar view of the matter added that the Sessions Divisions in question were down-graded for the purpose of promotion of Judicial Officers in the subordinate Judiciary and

now there is no need of continuation of this temporary down gradation.

- The Law and Prosecution Department, Government of Gilgit-Baltistan in its report and Registrar, Chief Court Gilgit-Baltistan in the comments have conceded that up-gradation of District Ghizar, Ghancay and Astore as Sessions Divisions is essential for the better administration of Justice.
- In view thereof, we direct that competent authority will issue notification of up-gradation of districts Ghizar, Ghanchay and Astore as Sessions Divisions with immediate effect. Disposed of.

Chief Judge

Judge

Judge