

**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. 31/2018
in
CPLA No. 59/2017

Provincial Government & others

Petitioners.

Versus

Jan Alam & others

Respondents.

PRESENT:-

1. The Advocate General Gilgit-Baltistan alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Johar Ali Advocate for respondents.

DATE OF HEARING: - 17.07.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned order dated 28.02.2017 in Writ Petition No.95/2016 passed by the learned Chief Court whereby the said Writ Petition filed by the respondents was allowed by directing the petitioners to pass office orders of appointments of respondents against the suit posts, hence, this petition for leave to appeal. This court vide order dated 08.05.2017 issued notices to the respondents and case is heard today.

2. Briefly, the facts of the case are that the respondents filed Writ Petition No. 95/2016 in the learned Chief Court contending therein that they appeared in test and interview for the advertised posts of Foot Constables in Police Department Gilgit-Baltistan. The petitioners defended the plea of the respondents that

all the advertised posts were filled in from the qualified candidates and remaining including the respondents were kept in waiting list. On availability of 08 posts, the candidates from waiting list i.e. from serial No. 01 to 08 were appointed. No further posts have been sanctioned and approved for appointment till date. The appointments of the respondents (from waiting list) were not made due to non-availability of vacant posts. The learned Chief Court, however, upon hearing allowed the writ petition by directing the petitioners to pass office orders of appointments of respondents against the suit posts, hence, this petition for leave to appeal.

3. The learned Advocate General submits that the respondents have no locus standi to file the writ petition in the learned Chief Court. He submits that the impugned order is on the basis of photo copy produced by respondents whereas in the photo copies, it is clearly mentioned that process for approval was initiated but not proved, hence, no post remained available. He also submits that the learned Chief Court without considering the above facts regarding non availability of posts and implication of financial constraints accepted the writ petition in suit posts. Per learned Advocate General, the said photo copies produced by the respondents are/were not admissible as a piece of evidence. He further submits that as per averments of the respondents in their writ petition that the process of approval of more posts is under consideration which is itself an admitted fact that no posts have been approved so far. He submits that the learned Chief Court did

not consider the aforementioned facts while passing the impugned order dated 28.02.2017 and the same is not sustainable. He prays that the said impugned order may graciously be set aside.

4. On the other hand, the learned counsel for the respondents supports the impugned order passed by the learned Chief Court. He contends that the respondents after qualifying the test and interview conducted by the petitioners were placed in the waiting list notified by respondents. Per learned counsel, vide office order dated 13.10.2015, the petitioners appointed 44 persons as Foot Constables whereas 15 candidates were placed on the waiting list. Out of 15 candidates from waiting list from serial No. 01 to 08 were appointed against another vacant posts. He contends that 10 more vacancies have again fallen vacant in the department. On 06.02.2016, the respondents filed an application to Inspector General of Police Gilgit-Baltistan for issuance of appointment orders. He further contends that upon receiving such application, the petitioner(s) sought report from the department who submitted its report on 13.04.2016 stating therein that 09 posts of constables are lying vacant in District Diamer. An office note was put for approval but the same is still awaiting. He contends that the respondents have been running from pillars to posts for redressal of their grievances. The petitioner(s) refused to issue appointment orders. He submits that the learned Chief Court has rightly accepted the Writ Petition of the respondents. He prays that the

impugned order 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 order passed by the learned Chief Court. 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 order which is not tenable in law.

6. In view of the above discussions, we convert this petition into an appeal and the same is allowed. Consequently, the impugned order dated 28.02.2017 in Writ Petition No.95/2016 passed by the learned Chief Court is set aside. The respondents, however, may approach the competent court of law for redressal of their grievances, if they so advised.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.