

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN AT
GILGIT.

C.P.L.A NO.24/2012.

Before :- Mr. Justice Rana Mohammad Arshad Khan, Chief Judge.
Mr.Justice Muzaffar Ali Judge.

- 1.Vice Chancellor Karakorum International University Gilgit-Baltistan.
2. Registrar Karakoram International University, Gilgit-Baltistan .

Petitioners

Versus

Mst.Kaneez Fatima d/o Ghulam Muhammad r/o Danyore, Tehsil and District Gilgit.

Respondent.

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN (EMPOWERMENT AND SELF GOVERNANCE ORDER) 2009 AGAINST THE JUDGMENT/ORDER DATED 12-06-2012 PASSED BY THE CHIEF COURT GILGIT-BALTISTAN.

Present :- 1. Mir Akhlaq Hussain Advocate on behalf of the petitioners.
2. Mr.Sharif Ahmed Advocate for the respondent.

Date of Hearing :- 20-08-2014.

JUDGMENT:-

Mr.Justice Muzaffar Ali J.....This petition for leave to appeal is directed against the judgment dated 12-06-2012, passed by the learned Divisional Bench of the Chief Court Gilgit-Baltistan, whereby the learned Divisional Bench has held that, the judgments passed by this court in CPLA No.7/2008 and judgment of this Court in Review petition No.2/2008 are applicable to the case of the present respondent and the present respondents is entitled to get benefit extended by both the judgments to the petitioners in the cited cases.

2. The facts of the case are as such that, the present respondent was appointed as Lecturer in English (BPS-17) on contract basis for six months. This Court during pendency of above cited review petition issued an interim order against the present petitioners, the same is reproduced as under :-

"However in the larger interest of justice and public at large as to save precious time of the students, 53 newly appointed Lecturers in BPS-18 on contract basis and already appointed Lecturers/petitioners on contract basis whose service has not been extended on expiry of terms and relieved without assigning any reason shall be considered and adjusted in the relevant subject they are already selected till the final disposal of the petition."

3. The present petitioners complied this order and also applied the same in favour of the present respondent and her contract services were continued till final adjudication of the case by this court vide appointment letter dated April 16-2008, thereafter the petitioners turned the contract services of the respondent into visiting faculty w.e.f 20-9-2010.

4. The present petitioners admitted the factual grounds taken by the respondent in her writ petition as well as in the petition for leave to appeal before this Court, but they defended as that, since the present respondent was not party to the petition for leave to appeal adjudicated before this court, neither she was party to the review petition adjudicated by this court, nor she was party in writ petition adjudicated by the Chief Court Gilgit-Baltistan, as such she is not entitled to get any benefit extended by this court, to the petitioners through the above cited judgments. The learned counsel for the petitioner has also taken plea of estoppel against, as in his opinion the present respondent has accepted and extended her services as visiting faculty in the department without raising any objection in due time.

5. We, after hearing the counsel for the parties, have reached to the conclusion that, the case in hand moves around the judgments adjudicated

by this court and cited above in this judgment. Therefore, we have gone through the cited judgments to ascertain whether the instant case comes within the ambit of the previous judgments of this court and also to understand if the present respondent has any title to get any benefit, comes out of the judgments cited and discussed in the impugned judgment. We for this purpose reproduced here under the relevant para of the judgment passed by this court in the review petition No.02/2008.

"The rule of fair treatment and natural justice would demand that, candidates who have qualified the test and interview on the basis of 40% aggregate marks have acquired a legitimate right of selection on their own merits have been dealt with accordingly. Similarly the candidates who were appointed on contract basis in the prescribed manner would be entitled to be considered for regular appointment in their own right on the basis of their contract service."

6. The rational test of this judgment reveals that, it is a judgment in rem and not personnam as the last part of the above cited para of the judgment indicates that, this court has deliberately used the word "Candidate" which covers all the candidates coming within the ambit of the criteria fixed by this court in the said judgment, whether they are party to the judgment or not. In fact this court has settled a scheme to follow by the petitioners whenever they are going to make appointment of Lecturers in the institution. The referred judgment of this court can not be said to be limited for accommodation of the candidates who were petitioners in the judgment but it bounds the present petitioners to take care of it, in all the cases of appointment coming in its purview.

7. The last point, raised by the counsel for the petitioners as to the application of principle of estoppel against the respondent, having no substance to attract us to hold it against the respondent for the reasons that

Principle of estoppel is a rule of evidence and not a cause of action or a source of title. It debars a party from approving and reprobating a statement given by, in respect of a specific fact. Principle of estoppels can not be extended to prevent an action of law even if a party has allowed or consented by conduct any authority to pass an order to take an action, if the same order or action taken by the authority is against law or without lawful authority. In the instant case the petitioners turned the contract services of the present respondents into visiting faculty without lawful authority in derogation of the above cited judgment passed by this court, which is having binding force. We relied upon the following case law to reach into this conclusion. 1. PLD 1993 SC page 564
2. 1983 SCMR page 125 3. PLJ 2006 SC 438 4. PLD 2005 SC page 819 and
5 2014 SCMR 1557

The upshot of the above discussion is that, the impugned judgment passed by the learned Divisional Bench of the Chief Court Gilgit-Baltistan suffers from no infirmity of law as such petition for leave to appeal is refused to grant. No order as to cost.

Announced.

20-08-2014

Chief Judge

Judge