

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
REGISTRY BRANCH SKARDU.**

Before:-

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

**1. Civil Appeal No. 29/2018
In
CPLA No. 134/2018.**

Provincial Government & others. Petitioners.
Versus
Aftab Ali Khan & others. Respondents.

**2. Civil Appeal No. 30/2018
In
CPLA No. 13/2018.**

Aftab Ali Khan & others. Petitioners.
Versus
Provincial Government & others. Respondents.

PRESENT:-

1. The Advocate General Gilgit-Baltistan for the petitioners in Civil Appeal No. 29/2018 and for the respondents in Civil Appeal No. 30/2018.
2. Mr. Muhammad Baqir Advocate (respondent No.08) in Civil Appeal No.29/2018 is present in person.

DATE OF HEARING: - 22.06.2018.

DATE OF DETAIL JUDGMENT: - 21.07.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... The aforementioned Civil Appeals have arisen out of the impugned judgment dated 16.10.2017 in Writ Petition Nos. 118/2017, 113/2017, 114/2017 & 159/2017 passed by the learned Chief Court, whereby the said Writ Petitions filed by the respondents in Civil Appeal No. 29/2018 and petitioners in Civil Appeal No. 30/2018 were partially allowed with the directions to the official

petitioners/respondents to fix the maximum age of all the candidates appearing in the Competitive examinations to be held by the FPSC as 33 years. The official respondents have also been directed to make necessary amendments in the syllabus of the papers of DDPP (BPS-17) & ADDPP (BPS-16) by omitting the subject of Civil Law and Major Act by replacing the same with Criminal Administration of Justice in consonance with the relevant papers of the provinces of Punjab and KPP respectively. Similarly, the answering respondents in the Writ Petitions now the petitioners were also directed to change the irrational and illegal proportion of 200/200 marks in written and Viva voce in case of Assistant Legal Adviser and to fix it as 200/100 for written test & Viva respectively. The petitioners being aggrieved by and dissatisfied with the said judgment of the learned Chief Court filed this Civil Petition for leave to appeal for the setting aside the same whereas the Petitioners in Writ Petition No. 118/2017 also filed cross appeal against the impugned judgment to the extent of fixing minimum/maximum age as 25/35 respectively with General Relaxation of 05 years in respect of the examination of law officers i.e. DDPP etc conducted under General Recruitment Rules, 1973 at par with the Provinces of the Punjab, Sindh, KPK and Baluchistan.

2. Briefly, the facts of the case are that the petitioners published an advertisement for the recruitment of the posts of Deputy District Public Prosecutor (BPS-17), Assistant District

Public Prosecutor (BPS-16) and Assistant Legal Advisor (BPS-16) through Daily K-2 newspaper dated 14.05.2017 wherein the age limit for the above posts was fixed as under:-

- a. Minimum 28 years and maximum 30 years for DDPP BPS-17.
- b. Minimum 20 years and maximum 28 years for ADPP BPS-16.
- c. Minimum 20 years and maximum 28 years for ALA BPS-16.

The upper age limit was relaxed by a maximum of three years for candidates belonging to schedule caste, Buddhist community and Gilgit-Baltistan and 05 years in case of Government Servants who have rendered a minimum of two years continuous Government Service on closing date of receipt of application. Similarly, the Federal Public Commission Islamabad, through another advertisement dated 09.04.2017 invited applications for competitive examination to fill 07 posts of DSPs (BPS-17) wherein the minimum/maximum age limit was fixed as 22/28 years respectively with the 03 year General Relaxation. The 10 years relaxation in case of Government Servants who have completed at least two years continuous service on the closing date of submission of applications. Likewise, 15 years age relaxation has also been given to the persons who had served in the Armed Forces of Pakistan. Through a subsequent advertisement, the petitioners advertised the post of Assistant Commissioner, Section Officer, Project Manager, Tehsildar and Development Officer wherein the

age limit was fixed as 21 years to 33 years. Further, the upper age limit was relaxed by maximum of 05 years. The answering petitioners vide Notification dated 09.10.2014 have held that the candidates for the posts of DDPP BPS-17 shall undergo written examination of 4 papers consisting of 400 marks (100 marks each) and 200 marks are further provided for viva voce. The detail of the said four papers is as under:-

1. Civil Law

- (i) Civil Procedure Code.
- (ii) Court Fee Act (Bare Acts to be provided)
- (iii) Specific Relief Act.

2. Criminal Law

- (i) Code of Criminal Procedure (Bare Acts to be provided).
- (ii) Pakistan Penal Code.
- (iii) Qanoon-e-Shahdat.

3. Islamic Law

- (i) Islamic Jurisprudence.
- (ii) Islamic Law (Fiqa Hanif and Fiqa Jaffari).

4. Major Acts

- (i) Gilgit-Baltistan Pre-emption Act.
- (ii) Suits Valuation Act.
- (iii) Contract Act.
- (iv) Arbitration Act.

Likewise, the candidates for the post of ADDPP BPS-16 are required to go through the above 4 papers of 400 marks plus 200 marks of viva voce and to get through in the competitive examination for the post of Assistant Legal Advisor BPS-16. The examination was held containing 200 marks for Written Test and 200 marks for Viva Voce. In this category i.e. Assistant Legal

Advisor BPS-16 the candidates have to appear in two papers namely Civil Law and Criminal Law.

3. The learned Advocate General Gilgit-Baltistan submits that the petitioners have got approved the Rules for Appointment within the four corners of law and no candidate can compel the Commission to advertise the vacant positions & written test etc as per their whims & wishes. Per learned The learned Advocate General, it is the Provincial Government who has powers to decide about the proposed syllabus for the Law Officers of Gilgit-Baltistan keeping in view the nature of the posts and other attending circumstances. The petitioners cannot claim for a syllabus of their own choice. He also submits that the experience is not a requirement of law for the purpose of initial appointment on the posts of BPS-16 and BPS-17. The competent fresh law graduates can also be a suitable candidate for the said posts. He argued that the learned Chief Court fell in error by allowing the Writ Petitions of the respondents partially vide the impugned judgment, therefore, the said impugned judgment is not tenable and liable to be set aside in circumstances.

4. Conversely, the respondent No.08 present in person supports the impugned Judgment. He contends that answering respondents were discriminated. They were not extended general relaxation of 05 years in age provided under the Act of 1973 for the posts of

Assistant Deputy District Public Prosecution BPS-16 and District Public Prosecutor BPS-17 which is altogether different from the advertisement pertaining to recruitment of DSPs where the candidates were held entitled for both the upper age relaxations of 3 years and 5 years respectively. He further argued that the answering respondents have failed to frame rules for appointment in conformity at par with the other provinces. They framed and approved appointment policies which are at variance even to that of different departments of Gilgit-Baltistan inspite of falling under the same academic qualifications. It was also argued that the posts of Assistant Legal Advisor, Assistant Deputy District Public Prosecutor and Deputy District Public Prosecutor being professional posts were required to be filled by well qualified, professional and experienced graduates. He prayed that the well reasoned impugned judgment passed by the learned Chief Court may pleased be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned judgment passed by the learned Chief Court. We have also perused the impugned Recruitment Rules and the Syllabus approved by the petitioners.

6. The perusal of the record transpires that sheer discrimination has been committed by the petitioners while framing and approving the Recruitment Rules for the appointment of

Assistant Deputy Public Prosecutor & Deputy District Public Prosecutor (BPS-16 & 17) respectively. Such benefit has not been given regarding General relaxation of age to the petitioner(s) as the same has been extended to other candidates i.e. (the candidates applying for the posts of Combine Competitive Examination Gilgit-Baltistan) through the same advertisement. Likewise, General relaxation of age has also been granted to the persons who have served in the Armed Forces of Pakistan and to those Government Servants who have rendered a minimum of two years continuous Service till the closing date of submission of their application. Similarly, the syllabus for the posts of Assistant Deputy Public Prosecutor and Deputy District Public Prosecutor (BPS-16 & 17) is also irrational, irrelevant and illegal as the Assistant/Deputy Public Prosecutor has to conduct the criminal cases on behalf of the State but astonishingly the subject of "Criminal Justice System" has not been included in the said Syllabus which has been ordered to include by the learned Chief Court through its impugned judgment. The learned Chief Court has rightly allowed the Writ Petitions filed by the respondents partially vide its impugned judgment which in our considered view is sustainable being well reasoned and well founded. Consequently, this Court does not want to interfere into the impugned judgment passed by the learned Chief Court.

7. In view of the above discussions, we dismissed the Civil Appeal No. 29/2018 in CPLA No. 134/2017, filed by the

Government of Gilgit-Baltistan & others, vide our short order dated 23.06.2018 by affirming the impugned judgment dated 16.10.2017 in Writ Petitions Nos. 118/2017, 113/2017, 114/2017 & 159/2017, passed by the learned Chief Court Gilgit-Baltistan. The Civil Appeal No. 29/2018 filed by the Government of Gilgit-Baltistan & others was dismissed vide our above short order dated 22.06.2018. Consequent thereto, the impugned Judgment dated 16.10.2017 passed by the learned Chief Court was maintained, therefore, the Civil Appeal No. 30/2018 in CPLA No. 13/2017, filed by Aftab Ali Khan & others has become infructuous which is disposed off accordingly. These were the reasons for our said short order.

8. The Appeals are dismissed in above terms.

Chief Judge.

Judge.