

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

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

**C. Appeal No. 38/2016
in
CPLA. No. 42/2014.**

1. Muhammad Younus son of Ghulam Ali R/o Palpaldu Tehsil
Kharmang District Skardu. **Petitioner.**

Versus

1. Provincial Government through Chief Secretary Gilgit-
Baltistan.
2. Secretary Health Gilgit-Baltistan.
3. Director Health Baltistan Region.
4. District Health Officer Skardu.
5. Assistant District Health Officer Skardu.
6. Hussain Shahid son of Raza R/o Palpaldu Tehsil Kharmang
District Skardu.
7. Accountant AGPR District Skardu.
8. Accountant General Gilgit-Baltistan. **Respondents.**

PRESENT:-

1. Mr. Malik Shafqat Wali senior Advocate alongwith Mr.
Rehmat Ali Advocate-on-Record for the petitioner.
2. Mr. Amjad Hussain Advocate on behalf of respondent
No. 06.
3. The Advocate General on behalf of the respondents.

DATE OF HEARING: - 02.06.2016.

DATE OF DETAIL JUDGMENT:-11.08.2016.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Petition has been directed against the impugned judgment dated 26.11.2013 in Writ Petition No. 101/2013 passed by the learned Gilgit-Baltistan Chief Court, whereby the Writ Petition of the petitioner was dismissed vide impugned order dated 26.11.2013 declaring the same incompetent. The petitioner

being aggrieved by and dissatisfied with filed this petition for leave to appeal. This court vide order dated 22.04.2015 issued notices to the respondents and the case was heard on 02.06.2016.

2. The brief facts of the case are that the petitioner was appointed as Chowkidar BPS-01 on Contingent basis at a fixed pay of Rs. 6000/- per month on 23.06.2011. Consequently, the petitioner was performing his duties against the said post with the respondent No. 04. The respondent No. 04 converted the contingent service of the petitioner into contract service on 01.08.2012 for a period of one year. The petitioner periodically requested to convert his services into permanent footing in line with the other contingent/contract employees of Health Department Gilgit-Baltistan but the same request was refused by the respondents. The petitioner being aggrieved filed Writ Petition No. 101/2013 which was refused in limine vide impugned order dated 26.11.2013. The petitioner again being aggrieved filed this petition for leave to appeal.

3. The learned counsel for the petitioner submits that the petitioner was performing his duties to the best satisfaction of the competent authorities. He further submits that the contingent service of the petitioner was converted into contract but the respondents malafidely and discriminately refused to convert the services of the petitioner into permanent footing as done with other employees of the various departments of

Gilgit-Baltistan. He further submits that the petitioner was entitled to be adjusted on permanent basis in line with Notification No. F.3/5/2011-Admin-1 dated 12.11.2011 but the respondents denied to convert his service into permanent footing which is contrary to the service rules. He further submits that the respondents are competent to transfer/convert the services of the contingent/contract employees from BPS-01 to 15 in consonance with the Rule of Business Schedule IV Column III but they refused to do so which is an act of discrimination. He also submits that the respondent No. 06 has wrongly been appointed against the said post of Chowkidar on the basis of providing land for the construction of Dispensary which is illegal in law. The respondent No. 06 has already received compensation against the said land. He also submits that the respondent No. 06 filed a Civil Suit against the respondent without making the petitioner as necessary party and the petitioner filed an application under Order 1 Rule 10 (2) CPC which was turndown by the learned Civil Judge Skardu as well as Additional District Judge Skardu respectively. The petitioner being aggrieved filed Writ Petition No. 101/2013 which was dismissed in limine by the learned Gilgit-Baltistan Chief Court vide impugned order dated 26.11.2013 passed by the learned Gilgit-Baltistan Chief Court. He finally submits that the impugned order dated 26.11.2013 passed by the learned

Gilgit-Baltistan Chief Court is the result of misconception of law and misreading/non-reading of the facts of the case, hence, the same is required to be set aside to meet the ends of justice.

4. On the other hand, the learned Advocate General alongwith Mr. Amjad Hussain Advocate for respondent No. 06 supports the impugned order dated 26.11.2013 passed by the learned Gilgit-Baltistan Chief Court. They contend that the petitioner has wrongly filed the said Writ petition which was rightly been dismissed by the learned Gilgit-Baltistan Chief Court in limine being not competent. They further contend that since alternate remedy to the petitioner was available, the Writ Petition does not lie in such case. The impugned order is well reasoned and well founded and the same is required to be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned order dated 26.11.2013 in Writ Petition No. 101/2013 passed by the learned Gilgit-Baltistan Chief Court. Admittedly, the petitioner had no locus standi to file Writ Petition in the circumstances. A Civil Suit was filed by the petitioner against the subject matter which was decided by the court of competent jurisdiction and the same was upheld by the learned First Appellate Court. Since no revision was

filed by the petitioner, the judgment of the learned Trial Court holds field.

6. In view of the above discussions, we converted this petition into an appeal and the same was dismissed vide our short order dated 02.06.2016. Consequently, the impugned order dated 26.11.2013 in Writ Petition No. 101/2013 passed by the learned Gilgit-Baltistan Chief Court was maintained. These were the reasons for our short order dated 02.06.2016.

7. The petition is dismissed in above terms.

Chief Judge.

Judge.

Judge.

Whether the case is fit to be reported or not?