

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

Before:-

1. Mr. Justice Dr. Muhammad Shamim, Chief Judge.

2. Mr. Justice Javed Iqbal, Judge.

**C. Appeal No.02/2016
in
CPLA. No. 10/2015.**

1. President First Micro Finance Skardu & three others

Petitioners.

Versus

1. Muhammad Ishaq son of Abdullah Rahim, OG-1, presently
Area Office, The First Micro Finance Bank Skardu, Baltistan.

Respondent.

PRESENT:-

1. Mr. Muhammad Iqbal Advocate alongwith Mr. Ali Khan
Advocate-on-Record for the petitioners.

2. Mr. Muhammad Issa senior Advocate alongwith Mr.
Ishaq Shakir Advocate on behalf of the respondent.

DATE OF HEARING: - 16.11.2016.

DATE OF DETAIL JUDGMENT:- 03.01.2017

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned judgment dated 03.11.2015 in Civil Revision No. 10/2015 passed by the learned Gilgit-Baltistan Chief Court whereby the said Civil Revision No. 10/2015 filed by the petitioners was dismissed by maintaining the judgment of the learned District Judge Skardu, hence, this petition for leave to appeal. This court vide order dated 30.03.2016 granted leave to appeal and the case was finally heard on 16.11.2016.

2. Briefly facts of the case are that the respondent filed a Civil Suit against the petitioner for declaration to the effect that he

has a right to continue his services in the petitioner Bank as Officer Grade-1. He is also entitled for pay and other benefits. He prays for cancellation of the impugned "Termination Order" dated 26.05.2011 issued on the basis of fake, factitious & Self made resignation attributed to the respondent. The petitioner contested the suit with the assertion that the respondent has himself tendered his resignation addressed to the Group Head Human Resource & Training. It was subsequently sent to the higher authorities by the Area Manager of the said bank for orders or otherwise. According to the version of the respondent the Group Head accepted the resignation of the respondent, subsequently, his services were terminated accordingly.

3. The learned Trial Court after getting Pro & Contra evidence dismissed the suit of the respondent vide its judgment/decreed dated 30.09.2014 which was assailed through Civil First Appeal No. 44/2014 before the learned First Appellate Court. Upon hearing it was partially accepted by setting aside the judgment/decreed of the learned Trial Court vide judgment/order dated 30.09.2014, which was upheld by the learned Gilgit-Baltistan Chief Court with the directions that the respondent be reinstated on his services with effect from the date of his termination i.e. 26.05.2011 with all back benefits.

4. The learned counsel for the petitioner submits that in the year 2011 a downsizing scheme was introduced in the learned First Micro Finance Bank and the Group, Head Human Resource &

Training visited Baltistan Region for the said purpose. He also submits that with the help of Operation Department, a list of the employees were prepared who were given option that in case of their resignations they shall be given certain incentives & the second option was that in case of non-acceptance of the said offer, the services of the employees would be terminated. He further submits the learned Trial Court while dismissing the suit of the respondent observed that the respondent has not taken a plea of undue influence in tendering his resignation, consequently his case was rightly dismissed.

5. As per the learned counsel for the petitioner it is proved beyond any doubt that the resignation of the respondent was procured on the basis of the said downsizing scheme. He further submits that the respondent was either to tender his resignation by accepting the offered incentives or to face compulsory termination from his service. The respondent voluntarily resigned in order to accept incentive offered by the petitioner Bank. He finally submits that on such circumstances the learned Gilgit-Baltistan Chief Court wrongly dismissed the Civil Revision No. 10/2015 and the petitioners were directed to regularize the service of the respondent with all back benefits, which is not sustainable.

6. On the other hand the learned counsel for the respondent supports the impugned judgment passed by the Gilgit-Baltistan Chief Court being well reasoned & well founded. He contends that the petitioners have obtained the signature of the

respondent/plaintiff with the pretext by introducing the “Downsizing Policy” of the employees of First Micro Finance Bank. Later on the services of other employees who resign earlier, have been re-employed whereas the services of the respondent have not been reinstated. He contends that the respondent has not tendered any resignation willfully with his free consent. He was constrained to sign on his application. He also contends that the respondent has spent his 10 (ten) years with the petitioner’s bank and during that period he has been admittedly given commendation certificate etc. He maintains that the respondent is only bread winner of his family and now he is 55 years old who cannot apply for any employment in any other organization. He prays that the said impugned judgment may very graciously be maintained being passed in accordance with law and facts of the case.

7. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned judgment dated 03.11.2015 in Civil Revision No. 10/2015 passed by the learned Gilgit-Baltistan Chief Court. The learned counsel for the petitioner could not point out any illegality and infirmity in the impugned judgment passed by the learned Gilgit-Baltistan Chief Court. The learned Gilgit-Baltistan Chief Court has rightly held that the impugned resignation dated 26.05.11 was forcibly procured from the petitioner by introducing the downsizing scheme. Admittedly the respondent were given two options i.e. either the employees including the respondent had to

tender their resignation or they had to face unilateral termination for their services by the petitioner Bank. Since the respondent did not tender any resignation willfully and voluntarily, we are in agreement with the observation made by the learned Gilgit-Baltistan Chief Court which is accordingly affirmed.

8. In view of the above discussions, we dismissed this petition vide our short order dated 16.11.016. Consequently, the impugned judgment dated 03.11.2015 in Civil Revision No. 10/2015 passed by the learned Gilgit-Baltistan Chief Court as well as the judgment dated 18.02.2015 in Civil First Appeal No.44/2014, 59/2014 passed by the learned Additional District Judge Skardu were maintained whereas judgment dated 30.09.2014 in Civil Suit No. 107/2011 passed by the learned senior Civil Judge was set aside. These were the reasons for our said short order.

9. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?