

**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. 76/2017
In
CPLA No. 30/2017.**

Provincial Government & others

Petitioners.

Versus

Sher Zaman son of Hameedullah Khan resident of Gurunjur Puniial
District Ghizer

Respondent.

PRESENT:-

1. The Advocate General alongwith Mr. Saeed Iqbal, Deputy Advocate General for the petitioners.
2. Mr. Sher Zaman respondent is present in person.

DATE OF HEARING: - 20.10 .2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Civil petition has been directed against the impugned judgment dated 22.12.2016 in Service Appeal No. 631/2016 passed by the learned Gilgit-Baltistan Service Tribunal whereby the said Service Appeal filed by the respondent was accepted by declaring the respondent entitled for pay & allowances under office order dated 10.12.2015 passed by petitioner No. 03 and cancelled the advertisement of the post of UDC BPS-9 at Government Boys High School Hatoon Ghizer. The petitioners being aggrieved by and dissatisfied with, filed this petition for leave to appeal. This court vide order dated

20.04.2017 issued notice to the respondent and the case is heard today.

2. Briefly, the facts of the case are that the respondent was appointed on 26.07.2013 as LDC BPS-07 on contract by the Director Education Gilgit-Baltistan against the vacant post at Boys High School Single for a period of six (06) months with immediate effect. Consequently, the pay of the respondent was adjusted on 03.07.2015 against a vacant post of LDC BPS-07 at Directorate of Education Gilgit-Baltistan with effect from 01.08.2013 till his proper adjustment in District Ghizer. Whereafter the Education Department Gilgit-Baltistan constituted a Special Recruitment Committee to prove the eligibility and suitability of 1235 incumbents who were appointed without fulfilling the requisite codal formalities i.e. advertisement and test/interview etc. Consequently, notices were issued to all such incumbents on 19.02.2014 including the respondent to appear before the said committee on 27.02.2014. The respondent appeared before the committee in question and he was declared fit for the post against which he was already appointed alongwith 700 incumbents out of 1235. He was transferred from Directorate of Education Gilgit-Baltistan to District Ghizer and appointed against the vacant post of UDC BPS-09 at High School Hatoon Punial Ghizer vide office order dated 10.12.2015. In the month of June, 2016, the said post was advertised in local newspaper by the Education Department Gilgit-Baltistan against which the respondent was already

appointed and his such appointment order was/is intact. The petitioner has paid pay and allowances to the respondent w.e.f. 26.07.2013 to 10.12.2015. The respondent feeling aggrieved with the said advertisement filed Service Appeal No. 631/2016 in the learned Gilgit-Baltistan Service Tribunal which upon hearing was accepted vide impugned judgment, hence, this petition for leave to appeal.

3. The learned Advocate General submits that the respondent had no locus standie to file the service appeal in the learned Service Tribunal which has wrongly been entertained and accepted. He also submits that the respondent was initially appointed as an LDC BPS-07 on 26.04.2013 purely on contract basis without completing the requisite codal formalities of the service rules. On 03.07.2015 the respondent was transferred from Boys High School Singul to Directorate of Education Gilgit-Baltistan against the vacant post of LDC BPS-07. On 10.12.2015 he was again transferred from Directorate of Education Gilgit-Baltistan to High School Hatoon against the vacant post of UDC BPS-09 but the respondent drawing his pay as LDC-BPS-07 against the post of UDC BPS-09 at High School Hatoon Ghizer. Later on, the said post of UDC BPS-09 was to be filled in through advertisement and for that purpose advertisement was issued in June, 2016 against which the respondent filed service appeal before Gilgit-Baltistan Service Tribunal. Per learned Advocate General, the learned Gilgit-Baltistan Service Tribunal without taking into consideration the

facts, law and maintainability of the appeal, accepted the said service appeal, cancelled the advertisement and declared respondent entitled for Pay & Allowances under office order dated 10.12.2015. He submits that the learned Service Tribunal fell in error by accepting the appeal of the respondent, hence, the same is not sustainable. He prays that the impugned judgment passed by the learned Gilgit-Baltistan Service Tribunal may graciously be set aside.

4. We have heard the learned Advocate General at length, perused the material on record and gone through the impugned judgment. Admittedly the respondent was appointed on contract as an LDC (BPS-07). Whereafter he was qualified keeping in view his higher qualification by the Special Recruitment Committee constituted by the petitioners. In our considered view, the impugned judgment passed by the learned Service Tribunal is well reasoned as the learned Advocate General also could not point out any infirmity or illegality into it.

5. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. The impugned judgment dated 22.12.2016 in Service Appeal No. 631/2016 passed by the learned Gilgit-Baltistan Service Tribunal is maintained, however, the same is modified that the respondent shall be adjusted and placed in BPS-07. The petitioners would be at liberty to advertise the vacant post(s) in BPS-09 and may fill in the said post(s) as already advertised. The respondent shall be entitled for payment of salary &

allowances from the date he joins duty. The non-serving period will be considered as leave without pay.

6. The appeal is dismissed in above terms.

Chief Judge.

Judge.