

**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. 70/2017

In

CPLA No. 84/ 2017

Provincial Government & others

Petitioners.

Versus

Shaukat Riaz

Respondent.

PRESENT:-

1. The Advocate General alongwith Mr. Saeed Iqbal, Deputy Advocate General and Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Johar Ali Khan Advocate alongwith Mr. Muhammad Abbas Khan Advocate-on-Record for respondent.

DATE OF HEARING: - 18.09.2017.

DATE OF DETAIL JUDGMENT:- 25.06.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Civil Appeal has been directed against the impugned judgment dated 18.04.2017 passed by the learned Chief Court whereby the Writ Petition filed by the respondent was accepted by directing the petitioners to reinstate the respondent into his service from the date of his termination with all back benefits. The petitioners being aggrieved by and dissatisfied with, filed this petition for leave to appeal. This court vide order dated 10.07.2017 issued notice to the respondent and the case was heard on 18.09.2017.

2. Briefly, the facts giving rise to this case are that the respondent was appointed on contract basis in the Department of Rescue 1122 as Station Coordinator District Diamer on 22.02.2016

with the condition of successful completion of training/probation period. After his appointment he was sent for 04 months training of Basic Rescue Course 23 in the “Emergency Services Academy” at Lahore. The respondent joined the said training at Lahore on 01.03.2016. During his training, the respondent went on leave w.e.f 30.04.2016 to 07.05.2016. He was directed to report back to the Academy latest by 10:00 PM on 08.05.2016 but the respondent failed to join the Academy in due time. On 13.05.2016 the roll of the respondent was struck up on disciplinary grounds. Apart from the aforementioned unauthorized absence from training, The respondent was also charged for misconduct. Subsequently, the petitioner terminated the respondent as his services were found unsatisfactory during his probation period. The respondent being aggrieved filed Writ Petition in the learned Chief Court which upon hearing was accepted giving him the relief as prayed for. The petitioners were directed to reinstate the respondent into his service from the date of his termination with all back benefits.

3. The learned Advocate General submits that the petitioner was a contract employee who has no protection under the Civil Servants Act 1973. The petitioner was on probation and during this period instead of showing progress, he proved ill-disciplined which is not tolerable. Per learned Advocate General, such acts of misconduct created not only a bad impact on fellow employees but it has adversely effected on departmental general discipline and image. He submits that the action taken against the

respondent by the petitioners is in accordance with law. Per learned Advocate General, in such a case, an employee, if his services are found unsatisfactory, during probation period, on an allegation of misconduct, the services of such incumbent can be terminated. He submits that the impugned judgment dated 18.04.2017 passed by the learned Chief Court is not sustainable.

4. On the other hand, the learned counsel for the respondent supports the impugned judgment. He contends that the respondent was appointed by the petitioner No. 03 after fulfilling all the codal formalities. After his appointment, he was sent for 04 months training to acquire knowledge of Basic Rescue Course-23. On 13.05.2016 after getting 03 months training from the said academy, the petitioner No. 04 & 05 have all of sudden struck off the respondent from the said Academy. He contends that as per rules it is not necessary training for trained officials as the respondent has already obtained 06 months training from the said academy. He further contends that the allegations leveled against the respondent are baseless, discriminatory and against the Government policy. He contends that the act of absence for 03 days is admitted, the violation of it is liable to be punished for the charges leveled against him but a major penalty i.e. termination from service is illegal and discriminatory in nature. He submits that the learned Chief Court has rightly accepted the Writ Petition of the respondent. He prays that the said impugned judgment may graciously 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. Admittedly, the respondent was on contract employee and his appointment against the impugned post was subject to successful completion of training during probation period. Consequently, he was sent for 04 months training of Basic Rescue Course-23 at emergency services academy Rescue 1122 Lahore. He joined the said training on 01.03.2016. Whereafter he sought leave which was allowed w-e-f 30.04.2016 to 07.05.2016 with the directions to report back to the said academy latest by 10:00 PM on 08.05.2016 but he failed to report the academy in due time which is violative of rules during probation period. Consequently, his services were terminated by the petitioners. The employees of Rescue 1122 are responsible to provide emergency services during crisis and disaster conditions. He must have shown high levels of discipline and sense of responsibility as the nature of their duties calls for it. In our considered view, the termination order dated 13.05.2016 issued by the petitioner No. 03 is well reasoned and well founded whereas the learned Chief Court fell in error while accepting the Writ Petition of the respondent, hence, the impugned judgment is not tenable in law.

6. In view of the above discussions, we converted this petition into an appeal and the same was allowed vide our short order dated 18.09.2017. Consequently, the impugned judgment dated 18.04.2017 in Writ Petition No. 207/2016 passed by the

learned Chief Court was set aside. These were the reasons of our said short order.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.