

**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. 14/2018

In

CPLA No. 120/2017

Provincial Government & others

Petitioners.

Versus

Zaidullah

Respondent.

PRESENT:-

1. The Advocate General alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Muhammad Abbas Khan Advocate-on-Record for respondent.

DATE OF HEARING: - 17.05.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned judgment dated 02.10.2012 in Writ Petition No. 43/2009 passed by the learned Chief Court whereby the said Writ Petition filed by the respondent was allowed. Being aggrieved by and dissatisfied with, the petitioners filed this petition for leave to appeal. This court vide order dated 18.11.2016 issued notice to the respondent and the case is heard today.

2. Briefly, the facts of the instant proceedings are that the respondent was initially appointed as teacher BPS-09 in High School Oshikandas, Gilgit. Later on, he was granted BPS-14 against the post of TGT BPS-16 in the same School vide Office Order No. Sec-Edu-2(100)2001 dated 26.08.2008. On 19.05.2000, 83 GUGTs were promoted as TGTs as per seniority list and due to his ante date promotion w-e-f 27.02.1995 i.e. from the date of his induction

in the Education Department his seniority has been restored. The name of the respondent has been included in the seniority list of GUGTs BPS-14 at serial No. 25. The respondent got eligibility for promotion to BPS-16 w-e-f 19.05.2000 as GUGTs BPS-14 on the basis of the said ante date seniority list. On 10.12.2002, the respondent submitted Department Appeal before the competent authority for his promotion to BPS-16. The petitioner No. 03 i.e. Director Education (Academics) sent working papers to petitioner No. 02 i.e. the Secretary Education Gilgit-Baltistan on 04.08.2003. The petitioner No. 02 did not consider the department appeal of the respondent and held the departmental appeal in pending since 05.08.2003 to 31.05.2008. During the pendency of the said department appeal of the respondent, the petitioners No. 02 to 07 promoted the other candidates. On 11.06.2006, the petitioner No. 07 i.e. Section Officer Education Department Gilgit-Baltistan vide Officer Order No. Sec-Edu-2(9)/2008 granted seniority to the respondent in BPS-16 w-e-f 19.05.2000 alongwith his promotion with consequent financial benefits. The petitioners in pretext of Audit restrictions denied the promotion of the respondent with retrospective effect from 19.05.2000. The respondent being aggrieved by and dissatisfied with, filed Writ petition No. 43/2009 in the learned Chief Court. Upon hearing the learned Chief Court accepted the said Writ Petition vide impugned judgment dated 02.10.2012. The petitioners feeling aggrieved, filed this petition for leave to appeal.

3. The learned Advocate General submits that the respondent was initially appointed as teacher BPS-09 in High School Oshikandas Gilgit but the he directly approached Home & Services Department on the basis of qualification of FA/CT. He also submits that the Home and Services Department without taking into consideration the fact that there were already many other senior teachers waiting for promotion in the next Grade of BPS-14, promoted the respondent in BPS-14 which was irregular and unjustified. Per learned Advocate General, the respondent was much junior and he had no vested right of promotion to BPS-14 by passing senior eligible teachers. He submits that the respondent due to ante date promotion claimed further promotion in BPS-16 resultantly he was granted promotion in BPS-16 with effect from 19.05.2000. This promotion was issued without financial back benefits due to the said pre-mature and illegal promotion order of Services Department. He submits that the learned Chief Court fell in error while accepting the Writ Petition of the respondent vide impugned judgment dated 02.10.2012. He submits that the said impugned judgment is the result of misreading/non-reading of the facts of the case and the same is not sustainable. He prays that the said impugned judgment may graciously be set aside.

4. On the other hand, Mr. Muhammad Abbas Khan, the learned Advocate-on-Record for the respondent supports the impugned judgment passed by the learned Chief Court. He contends that the learned Chief Court has rightly accepted the writ

petition filed by the respondent vide impugned judgment dated 02.10.2012. He prays that the said impugned judgment may pleased be maintained being well reasoned and well founded.

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. Admittedly, the petitioners have discriminated the respondent by depriving him from his legal right of promotion on the pretext of Audit restrictions. The respondent may be treated equally among equals and he has right to claim the ante date seniority. In our considered view, the impugned judgment dated 02.10.2012 passed by the learned Chief Court is well reasoned and well founded, hence, no interference into it is warranted.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned judgment dated 02.10.2012 in Writ Petition No. 43/2009 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.