

**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. 12/2017

In

CPLA No. 39/2017.

Abdu-Rahim Shah

Petitioner.

Versus

Provincial Government & others

Respondents.

PRESENT:-

1. Mr. Rehmat Advocate-on-Record for the petitioner.
2. The Advocate General Gilgit-Baltistan alongwith Mr. Saeed Iqbal, Deputy Advocate General and Mr. Johar Ali Advocate/Legal Adviser Education Department Gilgit-Baltistan on behalf of the respondents.

ORDER DATED: - 10.08.2017.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This appeal has arisen out of the impugned judgment dated 05.10.2016 in Service Appeal No. 282/2014 passed by the learned Gilgit-Baltistan Service Tribunal whereby the said service appeal filed by the petitioner was dismissed being not maintainable. The petitioner being aggrieved by and dissatisfied with filed petition for leave to appeal. This Court vide order dated 17.04.2017 granted leave to appeal and the case is heard today i.e. 10.08.2017.

2. Briefly the facts of the case are that the petitioner passed his Matriculation Examination in the year 1975 which denotes the Date of Birth of the petitioner as 01.01.1958. Later on, the petitioner joined the Education Department as teacher on

03.04.1980 and his date of birth was incorporated in his Service Book as 01.01.1958 which is same as written in his SSC record. He continued his services uninterruptedly till 2013 whereafter the respondent No. 06 stopped the monthly salary of the petitioner on the basis of erroneous entry of date of birth in the CNIC as 01.01.1952 which is clerical mistake of NADRA authorities. The petitioner filed a Civil Suit in the Court of learned Civil Judge Astore which was declined. The respondent No. 04 has acknowledged the correct date of birth of the petitioner vide letter dated 31.03.2013 and the same has been conveyed to NADRA authorities to rectify the clerical mistake made in the CNIC. The petitioner made request to remove the clerical mistake and prayed to declare his correct date of birth as 01.01.1958 but the NADRA authorities are not ready to remove the same mistake. The petitioner also made request to direct the respondents not to stop his monthly salary but all in vain. The petitioner being aggrieved filed Service Appeal No. 282/2014 before the learned Gilgit-Baltistan Service Tribunal which upon hearing was dismissed being not maintainable vide impugned judgment dated 05.10.2016.

3. The learned counsel for the petitioner submits that the petitioner has passed his Matriculation in the year 1974 and the matriculation certificate of the petitioner shows that the date of birth as 01.01.1958 which is also accepted by the Education Department. He also submits that the Service Book also supports the contention of the petitioner as his date of birth is 01.01.1958.

Per learned counsel the petitioner is performing his duties till now and the competent authorities have not issued any notification for retirement. He submits that the respondent No. 06 illegally stopped the monthly salary of the petitioner on the basis of erroneous entry of date of birth in the CNIC which is against the law, procedure and the service rules. He prays that the impugned judgment dated 05.10.2016 in Service Appeal No. 282/2014 passed by the learned Gilgit-Baltistan Service Tribunal may graciously be set aside to meet the ends of justice.

4. On the other hand, the learned Advocate General supports the impugned judgment dated 05.10.2016 in Service Appeal No. 282/2014 passed by the learned Gilgit-Baltistan Service Tribunal. He contends that the date of birth of the petitioner is 01.01.1952 according to CNIC and the record of service book is fake & fabricated. Per learned Advocate General no final order has been challenged and no departmental appeal has been preferred by the petitioner. He contends that the petitioner has attained the age of superannuation and he is no more government servant. He further contends that all the government employees are paid their pay & allowances through online system. The respondent entered, the date of birth of the petitioner according to the information furnished by his concerned department and the system itself stopped the salary of the petitioner on attaining the age of superannuation. He prays that the impugned judgment dated 05.10.2016 in Service Appeal No. 282/2014 passed by the learned Gilgit-Baltistan Service

Tribunal 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 which transpires that the Date of Birth as 01.01.1958 of the petitioner incorporated in his service book. Later on, his Date of Birth has inadvertently been entered in his CNIC as 01.01.1952 which may be a clerical mistake while feeding in computer by NADRA. In our considered view, the Date of Birth of the petitioner mentioned in the Matriculation Certificate as 01.01.1958 is correct which was subsequently entered in the Service Book of the petitioner accordingly.

6. In view of the above discussions, we allow this appeal. Consequent thereto, the impugned judgment dated 05.10.2016 in Service Appeal No. 282/2014 passed by the learned Gilgit-Baltistan Service Tribunal is set aside. The respondents are directed to allow the petitioner to join his service forthwith. He may be paid salaries etc as per permissible service rules.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.