

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN

GILGIT

C.PL.A NO.59/2014

Before :- Mr. Justice Raja Jalal-Ud-Din Acting Chief Judge.
Mr. Justice Muzaffar Ali, Judge.

1. Chairman Aga Khan Education Service Pakistan.
2. Chief Executive Office AKESP, KDA VII Block F-17 , H.No.3/4 Uzma Plaza Clifton Karachi.
3. General Manager, AKESP GB , office at Konodass , KIU Road Gilgit.
4. Field Education Officer AKESP Gupis.
5. Head FEO AKESP Gupis.
6. Teacher Educator FEO Gupis.
7. Manager Human Resources AKESP Office situated at Konodas
Gilgit. Petitioners

Versus

Mst. Shabnam daughter of Afiat Khan wife of Habib Jan residents of village Dahimal Tehsil Gupis District Ghizer.

Respondent/plaintiff

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE) ORDER 2009, AGAINST THE IMPUGNED JUDGMENT DATED 06-12-2013, PASSED BY THE CHIEF COURT GILGIT-BALTISTAN.

Present :- Mr. Ali Dad Khan Advocate for the petitioners.

Mr. Latif Shah Advocate for the respondent.

Date of Hearing :- 18-05-2015:-

JUDGMENT:-

Mr. Justice Muzaffar Ali J..... The instant petition was filed for grant of leave to appeal against the impugned order dated 06-12-2013, passed by a learned Single Judge of the Hon'ble Chief Court Gilgit-Baltistan. Since the learned counsel for the petitioner had raised some legal points which required thorough

consideration as such we noticed to the respondent to meet the same.

We after hearing, both the counsel for the parties reached to the conclusion that the petition cannot be converted into appeal as the same is meritless for the reasons here after to be recorded.

The brief facts wrapped with this petition are as such that the present petitioners holding administration of a private group of education in Gilgit-Baltistan. The petitioners appointed the present respondent against a vacant post in Primary School Khalti in the year 1990. The respondent passed F.A. and PTC, during her services.

After lapse of 13 years of her service, the petitioners introduced a scheme called “appraisal” (Scheme), whereby the respondents terminated the services of the petitioner as Teacher in the said School. The present respondent being aggrieved from the termination order filed the suit No.31/2007&20/2012 before the learned Court of Civil Judge Gupis. The learned Civil Judge Gupis after completion of procedural proceedings dismissed the suit of the petitioner on 22-06-2012.

The present respondent filed Ist appeal before the Court of learned District Judge Ghizer. The learned District Judge Ghizer after going through the merits of the case disagreed with the findings of the learned Civil Judge Gupis and set aside the impugned decree. The present petitioner filed Revision petition No. 43/2012 before the

learned Chief Court Gilgit-Baltistan and a learned Single Judge of the Chief court passed the impugned order dated 06-12-2013 and maintained the judgment passed by the learned District Judge Ghizer. Hence this petition before this court against the impugned judgment passed by the learned Single Judge of the Chief Court Gilgit-Baltistan.

The learned counsel for the petitioner urges that the present respondent lacks teaching abilities, but record otherwise shows that, she passed her F.A. examination and also succeeded to pass her C.T. examination during her service as a Teacher in the said institution. She has gone through various trainings and workshops under the education system running by the present petitioners as such she was placed in top-C by the administration.

The learned counsel for the petitioners assails the maintainability of the suit and also jurisdiction of the civil courts with the contention that since the petitioners are a company / corporation under the company ordinance 1994 and has its own rules as such “**Principle of Master and Servant**” applies to the instant case and the civil courts lack jurisdiction to entertain any suit against the petitioner by their servants.

We are in consonance with the findings of the learned Single Bench of the Chief court and disagree with the learned counsel regarding the jurisdiction. The respondents are running an

educational institution in Gilgit-Baltistan and teachers appointed by them in various institutions could not be let at the mercy of the petitioners on pretext of Principle of “Master and Servant” because as per legal maxim “ubi jus ibi remedium, where there is a right. There is a remedy.

It is further to say that, the respondents came within the definition of “legal person” and they can be sued against.

Last but not the least, the present respondent has spent 13 precious years of her life in the said institution and all of a sudden, after expiry of her age to get any service in any other institution /department, the petitioners under principle of equity might not be allowed to kick the poor lady out from her respective service on the pretext of principle of “Master and servant”. The respondents to mind it that, the age of slavery has gone and the “Principle of Master and Servant” does not mean the “principle of slavery”. Hence the petition is refused to grant and the impugned order is upheld.

Announced.

18-05-2015

Petition refused

Acting Chief Judge

Judge