

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

C. Appeal No. 42/2016

In

CPLA No. 11/2016.

Ibrar Ali & others

Petitioners.

Versus

Provincial Government & others

Respondents.

PRESENT:-

1. Mr. Ibrar Ali petitioner No.01 is present in person.
2. The Advocate General Gilgit-Baltistan for the respondents.

DATE OF HEARING: - 23.11. 2017

DATE OF ANNOUNCEMENT OF JUDGMENT: - 12.04.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This appeal has been directed against the impugned judgment dated 10.12.2015 in Service Appeal No. 470/2014 passed by the learned Service Tribunal Gilgit-Baltistan whereby the said Service Appeal filed by the petitioners was dismissed being not maintainable, hence, this appeal. This court vide order dated 10.06.2016 granted leave to appeal. Consequently, notices were issued to the respondents and the case was heard on 23.11.2017.

2. Briefly, the facts of the case are that the petitioners were appointed as Machinists (BPS-02) on work charge basis on 18.03.2010 under Water & Power Department Gilgit-Baltistan.

Later on, the posts of the petitioners were re-designated and upgraded as Sub-Engineer (BPS-11) by transferring the same posts to Maintenance head as Regular Temporary Employees (RTE). subsequently, the petitioners joined the project posts of "14/16" Megawatt Hydro Power Project phase III & V Gilgit purely on contract basis for a period of three years. Whereafter, as per record, the Finance department Gilgit-Baltistan sanctioned 4379 posts for Water & Power Department. Consequently, the services of the petitioners were regularized against the newly created posts of Sub-Engineers on 16.12.2013. Afterward, the Secretary Services Gilgit-Baltistan vide Office Order dated 18.06.2014, declared the regularization/appointment of the petitioners null & void because the appointment of the petitioners was made without fulfilling the prescribed Service Rules and law by declaring the Departmental Selection Committee for regularization of the work charge employees as illegal. Secondly, the appointment was made during the ban so imposed by the Federal Government. The petitioners being aggrieved by and dissatisfied with, filed Service appeal before learned Service Tribunal Gilgit-Baltistan which upon hearing was dismissed vide the above impugned order, hence, this appeal.

3. The learned counsel as well as the learned Advocate-on-Record for the petitioners, were not in attendance inspite of issuance of notice to them and the same were served upon them properly. The petitioner No.01 was present who was directed to file written arguments with the consultation of his counsel within one

week vide this Court order dated 23.11.2017. The petitioners did not bother to file the written argument in pursuance of the order of this Court. Consequently, this case is heard and decided on its own merits. The petitioners in their petition contended that they have served the respondents for a considerable period as work-charge and RTE employees and their services have also been regularized in line with the policy of the Federal Government. The respondents without issuing any show cause terminated their services which is against the golden Principles of Natural Justice. They also contended that after being regularized they have got certain vested rights which afterward have been taken away by an administrative order by the respondents, hence, the impugned termination order is illegal void ab-initio and has been issued without unlawful authority which is not tenable. The learned Service Tribunal fell in error in dismissing the service appeal of the petitioners which is liable to set aside.

4. On the other hand, the learned Advocate General supports the impugned judgment passed by the learned Service Tribunal Gilgit-Baltistan. The petitioners were serving on work charge and Regular Temporary Employees (RTE) employees and their service were regularized without completing the codal/formalities of Service law i.e. no advertisement was ever published and no test/interview was ever conducted. Per learned Advocate General, there was ban by the Federal Government on appointment and regularization of the employees at that time. Consequently, the learned Service Tribunal has rightly dismissed

the service appeal of the petitioners and the same be graciously upheld.

5. We have heard the learned Advocate General, perused the material on record and gone through the impugned judgment. Admittedly, the appointment/regularization of the petitioners were made without fulfilling the requisite prescribed service Rules i.e. the Advertisement of the posts, constitution of the Departmental Selection Committee to conduct test/interview etc. Furthermore, it is also an admitted fact that the Federal Government had imposed ban on appointment and regularization of employees at the time of the regularization of the petitioners, hence, the appointment /regularization of the petitioners was illegal, unlawful and ab-initio void. In our considered view, the learned Service Tribunal Gilgit-Baltistan has rightly dismissed the appeal of the petitioners and no indulgence is warranted into it by this Court.

6. In view of the above discussions, we dismiss this appeal by upholding the impugned judgment dated 10.12.2015 in Service Appeal No. 470/2014 passed by learned Gilgit-Baltistan Service Tribunal.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.