

**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. 60/2017
in
CPLA No. 58/2016.**

Manzoor Hussain

Petitioner.

Versus

Government of Gilgit-Baltistan & others

Respondents.

PRESENT:-

1. Mr. Javed Iqbal Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.
2. The Advocate General Gilgit-Baltistan on behalf of the respondents.

DATE OF HEARING: - 27.09.2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Civil Petition for leave to appeal has arisen out of the impugned order dated 26.04.2016 passed by the learned Gilgit-Baltistan Service Tribunal whereby the Service Appeal No. 602/2016 filed by the petitioner was dismissed in limini, hence, this petition for leave to appeal. This court vide order dated 18.11.2016 issued notices to the respondents and the case is heard today.

2. Briefly, the facts of the case are that the petitioner was working as driver BPS-04 in the office of the Secretary Finance Gilgit-Baltistan as contingent employees later on the services of the petitioner were regularized on 25.06.2013. Consequently, he got medically examined himself and reported for joining his services but

his joining was not accepted on the ground of non-availability of permanent post. The petitioner being aggrieved filed Service Appeal No. 602/2016 in the learned Gilgit-Baltistan Service Tribunal which was dismissed in limini declaring the same as not maintainable.

3. The learned counsel for the petitioner submits that the petitioner was appointed on a regular post by the respondents who refused to accept his joining malafidely. He submits that once an order was issued it can not be taken away by subsequent administrative order. Per learned counsel, the learned Gilgit-Baltistan Service Tribunal failed to understand the case of the petitioner while passing the impugned order, hence, the same is not tenable in law.

4. On the other hand, the learned Advocate General supports the impugned order passed by the learned Gilgit-Baltistan Service Tribunal. He contends that the adjustment order of the petitioner was issued by the respondents without completing codal formalities and the requisite service rules i.e. without advertisement, test and interview etc. He also contends that there was no vacant post in the Finance Department Gilgit-Baltistan and the petitioner was appointed against a non-existed post. Admittedly, no departmental appeal was filed by the petitioner before filing the service appeal in the learned Gilgit-Baltistan Service Tribunal which was mandatory in nature. He prays that the impugned order dated 26.04.2016 passed by the learned Gilgit-Baltistan Service Tribunal 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 order. Admittedly, the petitioner was appointed non-existent post without fulfilling the requisite codal formalities by the respondents. No departmental appeal was filed before filing service appeal in Gilgit-Baltistan Service Tribunal, which is mandatory, the violation of it, is not condonable. Further, the petitioner also filed Writ Petition No. 100/2015 in the learned Chief Court which upon hearing was disposed off by directing the petitioner to seek remedy from proper forum if so advised. In our considered view, the impugned order is well founded as no infirmity has been pointed out by the learned counsel for the petitioner.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned order dated 26.04.2016 passed by the learned Gilgit-Baltistan Service Tribunal is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?

