

**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. 05/2016

In

CPLA. No. 09/2016.

Muhammad Saeed & 07 others

Petitioners.

Versus

Provincial Government & 02 others

Respondents.

PRESENT:-

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

DATE OF HEARING: - 27.04.2017.

DATE OF ANNOUNCEMENT OF JUDGMENT:- 19.10.2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This appeal has arisen out of the impugned judgment dated 20.05.2016 in Writ Petition No. 12/2016 passed by the learned Chief Court whereby the Writ Petition filed by the petitioners was dismissed by directing the respondents to strictly follow their own imposed conditions laid down at serial No. 09 of the impugned advertisement. The petitioners being aggrieved filed this petition for leave to appeal. This court vide order dated 25.05.2016 granted leave to appeal and the case was firstly heard on 06.09.2016 and the judgment was reserved which could not be delivered due to the sad demise of Mr.

Justice Shahbaz Khan, Judge (Late). Later on, the case was fixed for re-hearing consequently, it was heard on 27.04.2017 again the judgment was reserved.

2. Briefly, the facts of the case are that the petitioners are the residents of various Districts of Gilgit-Baltistan who were appointed on various posts and scales on contract basis under the Municipal committees and District Councils in the different districts of Gilgit-Baltistan. The petitioners have been rendering their contractual services against their posts which were extended by the respondents from time to time. The main contentions of the petitioners are that they are entitled for regularization of their service against the posts held by them for the last five years. Earlier the contract services of more than fifty contract employees have been regularized by the respondents in the said department in the year 2010 to 2015. On the basis of such regularization of their colleagues the petitioners filed a departmental appeal to the respondents for regularization of their services but the respondents instead of regularizing their services advertised the posts held by the petitioners vide advertisement date 09.02.2016 in the Daily K-2 for fill in the same through eligible candidates. Although the respondents have bound themselves as appears at serial 09 of the said Advertisement that preference would be given to the contract /contingent employees who are already serving in the said department. The petitioners did not apply for the said post and filed Writ Petition No. 12/2016 in the learned Chief Court calling in

question the said advertisement. The learned Chief Court, upon hearing, dismissed the same with the directions to the respondents to follow their own imposed conditions laid down at serial No. 09 of the impugned advertisement, hence, this petition for leave to appeal.

3. The learned counsel for the petitioners submits that the petitioners have been appointed by the respondents keeping in view their age, eligibility, qualification and experience. He also submits that the petitioners have spent more than five years of their precious time, hence, they are entitled for their regularization against the vacant posts. Per learned counsel almost all the employees of different districts of Gilgit-Baltistan who were initially appointed on contract basis were regularized by the respondents. He further submits that the petitioners earlier moved departmental appeal which was turned down by the respondents. The petitioners have been discriminated which is against the golden principle of natural justice. He reiterates that the petitioners have served more than five years who have become entitled for their regularization irrespective of their age factor. In case of their termination they would become jobless without their fault. He prays that the impugned judgment dated 20.05.2016 in Writ Petition No. 12/2016 passed by the learned Chief Court is not sustainable and liable to be set aside.

4. On the other hand, the learned Advocate General supports the impugned judgment dated 20.05.2016 in Writ Petition

No. 12/2016 passed by the learned Chief Court. He contends that the petitioners were appointed by the respondents purely on contract basis against the temporary posts without fulfilling the requisite codal formalities of the relevant service rules. The respondents kept the scope for the petitioners to apply in response to the advertisement. In case they found eligible in the test/interview they will be taken against the vacant posts. They, however, can not claim as a matter of right for regularization by virtue of their contract appointment. While saying so he relied upon the case laws reported as 2012 SCMR 673 and PLD 2004 SC 313 wherein the petitions in identical cases have been dismissed by the Apex Court of Pakistan. Per learned Advocate General, the case of the petitioners is quite different from the case of those fifty employees whose services have been regularized and there is no similarity in both the cases at all. He contends that the Writ Petition of the petitioners has rightly been dismissed by the learned Chief Court which according to him is well reasoned and well founded being passed in accordance with law. He prays that the impugned judgment may pleased be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned judgment. We have also been fortified by the case laws referred by the learned Advocate General which are applicable. Admittedly, the petitioners were appointed on contract basis without fulfilling the requisite criteria and relevant codal

formalities of the service rules. Neither the impugned posts were advertised nor any test/interview was conducted by the Departmental Selection Committee (DSC). Furthermore, the respondents already pledged through their advertisement to give preference to the petitioners, in case they apply for the advertised posts and found eligible.

6. In view of the above discussions, we dismiss this appeal as the learned counsel for the petitioners could not point out any infirmity in the impugned judgment. Consequently, the impugned judgment dated 20.05.2016 in Writ Petition No. 12/2016 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.