

**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. 08/2018

In

CPLA No. 131/ 2017

Provincial Government & others

Petitioners.

Versus

Imran Hussain s/o Muhammad Hussain R/O Khomer Gilgit

Respondent.

PRESENT:-

1. The Advocate General alongwith Mr. Saeed Iqbal, Deputy Advocate General and Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Asadullah Khan Advocate alongwith Mr. Rehmat Ali Advocate-on-Record for respondent.

DATE OF HEARING: - 10.04.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned judgment dated 09.10.2017 in Writ Petition No. 94/2014 passed by the learned Chief Court whereby the said Writ Petition filed by the respondent was accepted by the directing the petitioners to regularize the respondent with all back benefits with effect from June, 2014. The petitioners being aggrieved by and dissatisfied with, filed this petition for leave to appeal. This court vide order dated 27.11.2017 issued notice to the respondent and the case is heard today.

2. Briefly, the facts of the case are that the respondent was initially appointed as helper (Work Charge) in the office of Water &

Power Department Gilgit vide Office Order dated 21.05.2011. Later on, the Federal Government approved the summary for one time regularization of work charge staff being paid from maintenance budget/fund. The petitioner No. 02 i.e. the Secretary Water & Power Gilgit-Baltistan in pursuance of the said approval constituted a committee for regularization of work charge staff against newly created posts in the said department vide letter No. SWP 1(13)/2013/24 dated 17.06.2013. The aforesaid committee conducted detailed scrutiny/verification of the work charge employees. After completion of the said scrutiny/examination, the cases of 582 work charge incumbents recommended for regularization with effect from 01.07.2013 and the respondent was declared most junior employee, therefore, he has not been regularized. The respondent being aggrieved, filed Writ Petition No. 94/2014 in the learned Chief Court contending therein that his name was appeared at serial No. 538 of the list prepared by the petitioners for regularization of contingent paid staff which upon hearing was allowed.

3. The learned Advocate General submits that the respondent has no locus standi to file the writ petition in the learned Chief Court. He also submits that the summary for regularization was moved to higher authorities for one time regularization of existing work charge staffs who were working in the department for decades and whose list was submitted for regularization. Per learned Advocate General, the said list alongwith

summary was not for new comers/fresh employees who were employed on daily wages or on fixed pay. He adds that the respondent was among the said employees who have been paid out of 2% development schemes and not from regular maintenance. He further submits that the learned Chief Court did not consider the aforementioned facts while passing the impugned judgment dated 09.10.2017 and the same is not sustainable. He prays that the said impugned judgment may graciously be set aside.

4. On the other hand, the learned counsel for the respondent supports the impugned judgment passed by the learned Chief Court. He contends that the respondent has been discriminated by the petitioners as he has been placed at serial No. 538 out of 582 incumbents recommended by the regularization committee. Per learned counsel, the petitioners have no option but to admit that the name of the respondent is clearly reflected in serial No. 538 of the final list of the regularization committee. He further contends that the respondent should have been regularized alongwith other 531 incumbents of the department. He submits that the learned Chief Court has rightly accepted the Writ Petition of the respondent. He prays that the impugned judgment passed by the learned Chief Court may pleased be maintained to meet the ends of justice.

5. We have heard the learned counsels for the respective parties at length, perused the materials on record and gone through the impugned judgment passed by the learned Chief Court. The

careful perusal of the case file transpires that the final list alongwith summary was not for new comers/fresh employees who were employed on daily wages or on fixed pay and the respondent was among the said employees who have been paid out of 2% development schemes and not from regular maintenance. We are in agreement with the contentions raised by the learned Advocate General. In our considered view, the learned Chief Court fell in error while passing the impugned judgment which is not tenable in law.

6. In view of the above discussions, we convert this petition into an appeal and the same is allowed. Consequently, the impugned judgment dated 09.10.2017 in Writ Petition No. 94/2014 passed by the learned Chief Court is set aside. The respondent may approach the competent court of law for redressal of their grievances, if he so advised.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.