

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

Before:-

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

Civil Review No. 08/2017

In

CPLA No. 49/2016.

Provincial Government & others

Petitioners.

Versus

Muhammad Alam & others

Respondents.

PRESENT:-

1. The Advocate General for the petitioners.
2. Mr. Munir Ahmed Advocate on behalf of the respondent.

DATE OF HEARING: - 21.09.2017.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This Review Petition has arisen out of the impugned short order dated 14.06.2017 passed by this court whereby the petition for leave to appeal filed by the petitioners was dismissed after converting the same into an appeal. The petitioners being aggrieved by and dissatisfied with the said short order filed this Review Petition. This court vide order dated 03.08.2017 issued notices to the respondents and the case is heard today.

2. The brief facts of the case are that the respondents filed a Service Appeal No. 491/2014 in the learned Gilgit-Baltistan Service Tribunal challenging the impugned order No. 7(6)/2014-Esst-III-Services dated 15.05.2014 issued by the petitioners. Through the said impugned order, the petitioners cancelled the office order No.

IG(prisons)-1(08)/2010 dated 01.03.2013 vide which the respondents were appointed/adjusted against the regular vacant posts of Warder BPS-05. Earlier, the respondents were performing their duties against the same posts on contract basis. The learned Gilgit-Baltistan Service Tribunal upon hearing partially allowed the said appeal by setting aside the impugned order dated 15.05.201. Consequently, the services of the respondents were reinstated, however, the second part of the appeal to stop the inquiry against the respondents was dismissed. The petitioners feeling aggrieved filed CPLA before this apex court which upon hearing was dismissed vide short order dated 14.06.2016.

3. The learned Advocate General submits that the appointment order of the respondents was issued illegally, without lawful authority and void. He submits that the common office order No. IG(prisons)-1(08)/2010 dated 01.03.2013 issued by the then IG prisons was passed in violation of Gilgit-Baltistan Civil Servant Act, 2011 without fulfilling the fundamental requisites of service rules i.e. advertisement, conducted written test/interview by constituting a Departmental Selection Committee etc. Similarly, the respondents did not file any departmental appeal before the competent authorities prior to filing Service Appeal in the learned Gilgit-Baltistan Service Tribunal. Per learned counsel, the service appeal filed by the respondents in the learned Gilgit-Baltistan Service Tribunal was not maintainable. The learned Gilgit-Baltistan Service Tribunal fell in error while accepting the same and passing the

impugned judgment thereto. He prays that the impugned short order dated 14.06.2017 may graciously be set aside.

4. On the other hand, the learned counsel for the respondents supports the impugned short order 14.06.2017 passed by this court. He contends that the respondents were appointed by the petitioners keeping in view their services on contingent basis and they are performing their duties to the entire satisfaction of the competent authorities. He also contends that although the petitioners ordered an inquiry against the respondents yet no proceeding has been initiated so far. Per learned counsel, the learned Gilgit-Baltistan Service Tribunal has rightly allowed the service appeal of the petitioners which was upheld by this apex court vide impugned short order. He prays that the impugned short order may pleased be maintained.

5. We have heard the learned counsel for the respective parties at length, perused the record of the case file and gone through the impugned short order passed by this court as well the judgment dated 01.07.2015 passed by the learned Gilgit-Baltistan Service Tribunal. Admittedly, the Service Appeal filed by the respondents was not maintainable as no departmental appeal was filed by the respondents. The respondents were appointed without fulfilling the codal formalities i.e. advertisement and test/interview by constituting Departmental Selection Committee (DSC).

6. In view of the above, this Review Petition is allowed by setting aside the impugned short order dated 14.06.2017 passed by

this court and the order dated 01.07.2015 passed by the learned Gilgit-Baltistan Service Tribunal.

7. The Review Petition is allowed in above terms.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?