

**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. 57/2017
in
CPLA No. 157/2016.**

Provincial Government & other

Petitioners.

Versus

Shakoor Muhammad & others

Respondents.

PRESENT:-

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

DATE OF HEARING: - 25.09.2017.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This petition for leave to appeal has arisen out of the impugned order dated 05.09.2016 passed by the learned Chief Court whereby the Civil Revision No. 137/2015 filed by the petitioners was converted into Writ Petition No. 14/2016 and the same was allowed by setting aside the concurrent findings of the learned Courts below. The petitioners being aggrieved filed this petition for leave to appeal. This court vide order dated 19.04.2017 issued notices to the respondents and the case is heard today.

2. Briefly, the facts of the case are that the respondents/plaintiffs filed Civil Suit No. 69/2008 in the court of learned Civil Judge 1st Class Gilgit for declaration etc contending

therein that the petitioners were bound to appoint the plaintiff as fisheries watcher in pursuance of order dated 17.08.1999 and 25.09.2002 passed by the learned Trial Court. Upon hearing the said suit was dismissed being meritless vide order dated 25.08.2014 which was upheld by the learned District Judge Gilgit vide judgment dated 11.09.2015. The respondents being aggrieved filed Civil Revision No. 137/2015 in the learned Chief Court which was converted into Writ Petition by invoking the supervisory power and the same was allowed. Consequently, the concurrent findings of the learned Courts below were set aside.

3. The learned Advocate General submits that the respondents claim for appointment against the post of Game Watcher BPS-05 on the basis of Para- 03 of the Office Order dated 22.08.2002 issued by the Deputy Director Fisheries. He submits that the basic qualification for the impugned post is Matriculation whereas the respondent No. 01 is an illiterate aged person, therefore, he can not be appointed against the said post. Per learned counsel, the Deputy Director Fisheries was not entitled and authorized to issue the said order, hence, it can not be implemented being unlawful and illegal. He submits that the learned Chief Court fell in error by allowing the Writ Petition of the respondents, hence, the impugned order is not sustainable whereas the learned Courts below have rightly dismissed the suit of the respondents.

4. On the other hand, the learned counsel for the respondents supports the impugned order passed by the learned

Chief Court. He contends that the petitioners were bound to appoint either the respondent No. 01 or his nominated son against the disputed post in line with the Office Order dated 22.08.2002 issued by the Deputy Director Fisheries and in pursuance with the order dated 17.08.1999 and 25.09.2002 passed by the learned Civil Judge Gilgit. Per learned counsel, the learned Courts below failed to appreciate facts of the case whereas the learned Chief Court passed the impugned order in accordance with law and facts of the case. He prays that the impugned order passed by the learned Chief Court may pleased 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 as well as the orders of the learned Courts below. In our considered view, the impugned order is not well founded. Admittedly, the Deputy Director Fisheries was not competent authority to appoint the respondents. Further, the appointment of the respondents was not made as per Service Rules and after completing of codal formalities. We hold that the order dated 22.08.2002 passed by an incompetent authority is void ab-initio, illegal and has been issued without lawful authority.

6. In view of the above discussions, we convert this petition into an appeal and the same is allowed. Consequently, the impugned order dated 05.09.2016 passed by the learned Chief Court is set aside whereas the judgment dated 25.08.2014 in Civil Suit No. 69/2008 passed by the learned Civil Judge 1st Class, Gilgit

& judgment dated 11.09.2015 in Civil First Appeal No. 108/2014 passed by the learned Appellate Court/District Judge Gilgit are maintained.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?