

**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. 38/2017
In
CPLA No. 110/2016.**

Provincial Government & others

Petitioners.

Versus

Shareef Ullah

Respondent.

PRESENT:-

1. The Advocate General Gilgit-Baltistan alongwith Mr. Saeed Iqbal, Deputy Advocate General for the petitioners.
2. Mr. Latif Shah Advocate alongwith Mr. Johar Ali Advocate-on-Record on behalf of the respondent.

DATE OF HEARING: - 10.08.2017.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This petition for leave to appeal has been directed against the impugned order dated 28.04.2016 in Writ Petition No. 57/2015 passed by the learned Chief Court whereby the writ petition filed by the respondent was accepted by directing the petitioners to release the salary of the respondent from the date of its stoppage declaring him as regular employee of the petitioners. The petitioners being aggrieved filed this petition for leave to appeal. This court vide order dated 27.04.2017 issued notice to the respondent and the case is heard today.

2. Briefly the facts of the case are that the respondent filed a Writ Petition No. 57/2015 on 20.04.2015 in the learned Chief Court contending therein that his salary may graciously be released as his services have been regularized by the petitioners vide office order No. CE-2/200/Admin/3/2013/100 dated 20.02.2014. Per the version of the petitioners the respondent is a stranger and he has not been appointed as Helper BPS-02 under Water & Power Division Astore. The impugned appointment order is fake, fabricated and bogus as the same was not issued by the petitioners.

3. The learned Advocate General submits that no post of Helper BPS-02 was neither advertised nor any test/interview was conducted by constituting a Selection Committee by the petitioners. He submits that the impugned office order regarding the appointment of the respondent was not issued by the petitioners as the same is fake, fabricated and bogus. Per learned Advocate General how salary can be released in favour of a stranger as he is not an employee of Water & Power Department. He submits that Writ Petition so filed by the respondent in the learned Chief Court was not maintainable as there are factual controversies in the matter which can only be entertained by the competent court of law in accordance with law. He further submits that the learned Chief Court fell in error while passing the impugned order dated 28.04.2016 in Writ Petition No. 57/2015, hence, the same is not tenable and liable to be set aside.

4. On the other hand, the learned counsel for the respondent supports the impugned order dated 28.04.2016 in Writ Petition No. 57/2015 passed by the learned Chief Court. He contends that the petitioners malafidely stopped the salary of the respondent. Consequently, the respondent was constrained to file Writ Petition in the learned Chief Court which was rightly allowed vide impugned order dated 28.04.2016 in Writ Petition No. 57/2015 passed by the learned Chief Court. He prays that the said impugned order may pleased be maintained to score the ends of justice.

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 order dated 28.04.2016 in Writ Petition No. 57/2015 passed by the learned Chief Court. The perusal of the record transpires that there are factual controversies in the case in question as the petitioners disown the impugned office order and the respondent claims that it has been issued by the petitioners validly. The services of the respondent have reportedly been regularized.

6. In view of the above discussions, we convert this petition into an appeal and the same is allowed. Consequent thereto, the impugned order dated 28.04.2016 in Writ Petition No. 57/2015 passed by the learned Chief Court is set aside, however, the respondent may approach the competent court of law for redressal of his grievances, if he is so advised.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.