

**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. 24/2018

In

CPLA No. 70/2017

Secretary Aviation Division Cabinet Division Islamabad & 05 others
Petitioners.

Versus

Muhammad Shafa s/o Fida Muhammad, Chowkidar CAA, R/O

Haider Pura Gilgit

Respondent.

PRESENT:-

1. Mr. Aftab Asif, Airport Manager, Gilgit for petitioners.
2. Malik Kifayat-ur-Rehman Advocate alongwith Mr. Shakoor Khan Advocate-on-Record for respondent.

DATE OF HEARING: - 05.06.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned order dated 28.02.2017 in Writ Petition No. 105/2015 passed by the learned Chief Court whereby the said Writ Petition filed by the respondent was allowed by directing the petitioners for preparing pension papers of the respondent assuming his date of birth as 01.02.1957. The petitioners being aggrieved by and dissatisfied with, filed this petition for leave to appeal. This court vide order dated 06.09.2017 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 Chowkidar in the year 1979 by the Civil

Aviation Authority (CAA) Gilgit. The respondent retired vide office order No. GT/4511/2/02828 dated 18.08.2015 on the ground that the he has attained the age of superannuation. Being aggrieved, the respondent filed Writ Petition No.105/2015 in the learned Chief Court contending therein that the said order for retirement of respondent is against facts and record as his actual date of birth is 01.02.1957. He is entitled to complete his age of superannuation accordingly. The petitioners in reply of the said writ petition submitted their parawise comments and denied the claim of the respondent. The CNIC number of respondent originally issued to him was 750-54-077177 and Form-B of respondent contains the same number /year of his birth i.e. 1954 which is also part of his service record. Upon hearing, the learned Chief Court allowed the writ petition filed by the respondent vide impugned order dated 28.02.2017, hence, this petition for leave to appeal.

3. Mr. Aftab Asif, Airport Manager, Gilgit is present in court today and states that the learned Chief Court did not consider the fact about the date of birth of respondent which is evident from his CNIC No. 750-54-077177 and Form-B of respondent in which the date of birth is mentioned as 1954. He submits that the respondent failed to prove his date of birth through documentary evidence. It is a mystery on whose authority the Medical Board was constituted to assess the age of respondent? Where are the recommendation of such Medical Board who opined the date of birth of respondent as 01.02.1957 instead of 01.07.1954? He prays that the impugned

order dated 28.02.2017 passed by the learned Chief Court may graciously be set aside.

4. On the other hand, Malik Kifayat-ur-Rehman appearing on behalf of the respondent supports the impugned order passed by the learned Chief Court. He contends that the petitioners have wrongly retired the respondent as he has not attained the age of superannuation on the basis of his date of birth i.e. 01.02.1957. Per learned counsel, the learned Chief Court has rightly allowed the Writ Petition No. 105/2015 filed by the respondent vide impugned order dated 28.02.2017. He prays that the said impugned order passed by the learned Chief Court may pleased be maintained.

5. We have heard Mr. Aftab Asif, Airport Manager, Gilgit as well as the learned counsel for the respondent at length, perused the materials on record and gone through the impugned order passed by the learned Chief Court. Admittedly no Medical Board was constituted to determine the age of the respondent. No certificate was ever issued by any Medical Board determining the age of respondent as claimed. On the contrary, from the CNIC No. 750-54-077-77 of the respondent it is evident that the date of birth was shown as 1954. Further, the respondent being in government service has not approached the competent authorities for correction of his age within first two years of his services. In our considered view, the impugned order is not well reasoned and well founded, hence, the same is not sustainable.

6. In view of the above discussions, we convert this petition into an appeal and the same is allowed. Consequently, the impugned order dated 28.02.2017 in Writ Petition No. 105/2015 passed by the learned Chief Court is set aside.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.