

**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. 19/2018

In

CPLA No. 50/2016

Sharafat Ali s/o Muhammad Ali Khan Assistant BPS-14 Directorate
of Fisheries Gilgit-Baltistan **Petitioner.**

Versus

Provincial Government & others

Respondents.

PRESENT:-

1. Mr. Munir Ahmed Advocate alongwith Mr. Shakoor Khan Advocate and Mr. Ali Nazar Khan Advocate-on-Record for petitioners.
2. The Advocate General alongwith Mr. Saeed Iqbal, Deputy Advocate General for respondents.

DATE OF HEARING: - 23.05.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned order dated 14.04.2016 in Writ Petition No. 152/2015 passed by the learned Chief Court whereby the said Writ Petition filed by the petitioner was dismissed being meritless, hence, this petition for leave to appeal. This court vide order dated 17.11.2016 issued notices to the respondents and the case is heard today.

2. Briefly, the facts of the case are that the petitioner was appointed as Fisheries Research Assistant BPS-14 under the development project titled "Survey of Fisheries Potential in Gilgit-Baltistan" for a period of one (01) year on 16.07.2012 under the Directorate of Fisheries Department, Gilgit-Baltistan. The said

project i.e. “Survey of Fisheries Potential in Gilgit-Baltistan” was completed on 30.06.2014. On 09.12.2013, the Director Fisheries had submitted PC-IV to the Finance Department Gilgit-Baltistan for conversion of the said posts into regular basis. Similarly, the KA&GB and Finance Division Islamabad vide letter No. F.6(II) PF-II/2015-16/137, 2015-2016 approved the said posts. On 21.09.2015, the Finance Department Gilgit-Baltistan vide letter No.1(223)2014-2015-DEV-F with the condition laid down that the created/converted posts shall be filled in after fulfilling all codal formalities i.e. through advertisement, written test, interview, DPC/DSC etc. The petitioner, being aggrieved and dissatisfied with the aforesaid letters/conditions filed writ petition No. 152/2015 in the learned Chief Court contending therein that the respondents may be directed to appoint/adjust the petitioner and he be paid salaries from the date of creation of post i.e. 01.07.2015 till date against the newly converted/created posts of Research Assistant BPS-14 in the Directorate of Fisheries Department Gilgit-Baltistan under the provision of The Gilgit-Baltistan Contract Employees (Regularization of Services) Act, 2014. Upon hearing, the learned Chief Court dismissed the Writ Petition filed by the petitioner, hence, this petition for leave to appeal.

3. Mr. Munir Ahmed learned counsel for the petitioner submits that the petitioner is entitled to be regularized from the date of creation i.e. 01.07.2015 under Section 3 of the provision of The Gilgit-Baltistan Contract Employees (Regularization of Services)

Act, 2014 as he has served the department earlier. He also submits that in a similar situation some other contract employees were adjusted and their services were regularized whereas the respondents malafidely and discriminately refused to appoint/adjust the petitioner. Per learned counsel, the petitioner has been discriminated. He submits that the learned Chief Court has wrongly dismissed the writ petition of petitioner which is not sustainable. He prays that the said impugned order may graciously be set aside.

4. On the other hand, the learned Advocate General supports the impugned order passed by the learned Chief Court. He contends that the petitioner has no locus standi to file the writ petition as he has been appointed purely on contract basis for a period of one (01) year. He was terminated after the contract period as the project was completed. He can not be granted the benefit of The Gilgit-Baltistan Contract Employees (Regularization of Services) Act, 2014 as one year prior to its promulgation of The Gilgit-Baltistan Contract Employees (Regularization of Services) Act, 2014, the service of the petitioner was terminated. Per learned Advocate General, the writ does not lie in circumstances. He submits that the learned Chief Court has rightly dismissed the writ petition of the petitioner and the said impugned order may pleased be maintained being well reasoned and well founded.

5. We have heard the learned counsels for the respective parties at length, perused the materials on record and gone through

the impugned order passed by the learned Chief Court. The careful perusal of the case file transpires that the petitioner has been appointed as Fisheries Research Assistant BPS-14 purely on contract basis for a period of one (01) year and on completion of the said period, the services of the petitioner were terminated as the project itself has come to an end. We are in agreement with the contentions raised by the learned Advocate General that he can not be regularized under The Gilgit-Baltistan Contract Employees (Regularization of Services) Act, 2014 as about one year prior to its promulgation the services of the petitioner were terminated. The provisions of Section 3 of the said Act, 2014 for convenience are reproduced as under:-

“Quote”

Section 3. Regularization of Service of certain

employees: All employees appointed on contract basis and holding their posts in different departments of Gilgit-Baltistan prior to or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having same qualification and experience for regular post for initial appointment:

“Unquote”

6. In view of the above provisions of law, admittedly the petitioner was not a contract employee prior or till the commencement of The Gilgit-Baltistan Contract Employees (Regularization of Services) Act, 2014. The contract services of the petitioner were terminated one year prior to the promulgation of the said Act, 2014, hence, he can not be regularized in service. The learned

counsel for the petitioner also could not point out any infirmity or illegality in the well reasoned and well founded impugned judgment passed by the learned Chief Court.

7. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned order dated 14.04.2016 in Writ Petition No. 152/2015 passed by the learned Chief Court is affirmed.

8. The appeal is dismissed in above terms.

Chief Judge.

Judge.