

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

Before:

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

Civil Appeal No. 08/2017

in

CPLA. No. 76/2016.

Usman Ali son of Farman Ali, Robi Hotel Tehsil & District Gilgit.
Petitioner.

Versus

VC KIU & 02 others

Respondents.

PRESENT:-

1. Mr. Malik Shafqat Wali Senior Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.
2. Mr. Mir Akhlaq Hussain Advocate on behalf of the respondents.

DATE OF HEARING: - 17.03.2017.

Date of announcement of judgment:- .04.2017

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out the impugned order dated 09.05.2016 in Writ Petition No. 39/2015 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 05.09.2016 issued notices to the respondents and the case was finally heard on 17.03.2017 and the judgment was reserved.

2. Briefly the facts as stated by the petitioner were that he was an employee of the Karakoram International University since 2002 till he relinquished from the post he lastly held. During the contract employment of the petitioner at Saudi Arabia, the respondents terminated the services of the petitioner under KIU

while not considering the application of the petitioner for lien and extraordinary leave for three years. The petitioner being aggrieved filed Writ Petition No. 39/2015 in the learned Chief Court which upon hearing was dismissed vide impugned order dated 09.05.2016, hence, this petition for leave to appeal.

3. The learned counsel for the petitioner submits that at the time of filing the Writ Petition in the learned Chief Court, he with bonafide mistake has not impleaded the Federation of Pakistan as proforma respondent. Consequently, he moved Civil Misc. No. 17/2017 in this court to implead the Federation of Pakistan provided under Article 174 of the Constitution of Pakistan as respondent.

4. He further submits that the respondents illegally and unlawfully terminated the services of the petitioner. He also submits that the respondents did not fulfill The Provisions of Section 4, 5 and 11 of the Civil Service Act, 1973 while terminating the services of the petitioner. Per learned counsel no proper procedure was adopted by the respondents by terminating the services of the petitioner as no show cause notice was ever served upon the petitioner, hence, the petitioner was condemned unheard. The petitioner his service has accumulated 283 days in his leave account. Consequently, he applied for leave which was not considered by the respondents. Similarly the petitioner applied for lien which was also not considered malafiedly and the services of the petitioner were wrongfully and illegally terminated which is

against the spirit of the University service rules. He adds that the learned Chief Court fell in error by dismissing the Writ Petition of the petitioner, therefore, the impugned order dated 09.05.2016 is not sustainable and liable to be set aside to meet the ends of justice.

5. On the other hand, the learned counsel for the respondents supports the impugned order dated 09.05.2016 in Writ Petition No. 39/2015 passed by the learned Chief Court. He contends that the petitioner has left the Karakoram International University (KIU) without obtaining Ex-Pakistan/Extraordinary leave for such period to proceed abroad. He also contends that the University in question had given no commitment to offer services as claimed on his return from Saudi Arabia. Per learned counsel the respondents were granted three days casual leave. The petitioner, however, left the University and remained absent for a period of 01 year 04 months and 13 days w.e.f 18.03.2006 to 01.08.2007 reportedly to serve in other university. The respondents issued various notices to the petitioner to join his service as he was continuously absent from his duties. The petitioner did not comply with the said notices consequently the respondents were constrained to terminate the services of the petitioner on account of his long and willful absence. He contends that there is no record on the file that the petitioner was allowed to proceed abroad by granting any type of leave from his job except forwarding his application and granting casual leave for three days (03) days. The

question of petitioner's lien in the university does not arise during his service with the King Fahad University of Petroleum and Minerals Saudi Arabia. Both the universities neither had any administrative connections nor the petitioner was allowed any type of deputation. The rules of both the universities do not provide any provision for such type of lien. Per learned counsel the learned Chief Court has rightly dismissed the Writ Petition so filed by the petitioner vide impugned order dated 09.05.2016 which according to the learned counsel for the respondents is well reasoned and well founded. He also contends that since the petitioner has not impleaded the Federation of Pakistan while filing Writ Petition in the learned Chief Court, therefore, at this stage it can not be rectified and impleaded as prayed for. The civil Misc. No. 17/2017 is liable to be dismissed.

6. We have heard the learned counsels for the respective parties at length, perused the record of the file and gone through the impugned order dated 09.05.2016 in Writ Petition No. 39/2015 passed by the learned Chief Court. Admittedly, the petitioner had left the Karakoram International University (KIU) at his own without obtaining long leave to serve abroad. There is nothing on record that the petitioner was allowed to proceed abroad by granting him any leave and on deputation as claimed by the petitioner. The learned counsel for the petitioner could not point out any illegality or infirmity in the impugned order. In our considered view the

impugned order is well reasoned and no interference is warranted into it.

7. In view of the above discussions, this petition is converted into an appeal and the same is dismissed. The petitioner, however, may approach the concerned department(s) or competent court of law for redressal of his grievances, if he so advised, Consequent thereto the impugned order dated 09.05.2016 in Writ Petition No. 39/2015 passed by the learned Chief Court is affirmed. The listed Civil Misc. No. 17/2017 is also dismissed.

8. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?