

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

C. Misc. No. 28/2016.

Before:

**Mr. Justice Dr. Rana Muhammad Shamim, Chief
Judge in Chamber.**

Engineer Yawar Abbas

Petitioner.

Versus

The Secretary Kashmir Affairs GB & others

Respondent.

PRESENT:-

1. Mr. Amjad Hussain Advocate for the petitioner.

ORDER DATED: - 13.04.2016.

This appeal against the order dated 04.12.2015 passed by the learned Registrar of this court was heard today. The learned counsel for the petitioner submits that an identical case of the Hon'ble Supreme Court of Pakistan in Constitution Petition No. 23/2012 titled Ms. Anita Turab versus Government of KPK filed by the petitioner for the protection of the rights of Civil Servants was taken up and decided as Sue Moto case. He further submits that the suitability of an appointment, posting or transfer falls primarily on the Executive Bench of the Government which comprises of both the political Executive and civil servant. The courts ordinarily will not interfere in the functioning of the Executive as long as it adheres to the law and established norms and acts in furtherance its fiduciary responsibility. He further contends that the petitioner was given responsibility of Project Director which is a tenure post and the same cannot be disturbed or transferred on political basis as the posting of the civil servants must be made in accordance with law and rules made thereunder. The petitioner being most

competent who has been assigned Project as Project Director and his tenure has not been completed yet and his tenure cannot be disturbed on the basis of liking, disliking or political basis as its involves welfare of the people and importance of public at large of this region. He prays that Sue Moto notice may please be taken on the application files by the petitioner.

I have heard the learned counsel for the petitioner at length and perused the record of the case file. On court inquiry that why the petitioner has not sought remedy under Writ Petition in the learned Chief Court as his fundamental right has been infringed on which the learned counsel for the petitioner agreed and sought permission to withdraw this petition in order to approach the learned Chief Court for availing remedy in accordance with law thereto. He also contends that directions be given to the learned Chief Court to dispose the petition expeditiously, if so filed by the petitioner.

The petitioner is allowed to withdraw the petition and the same is disposed off accordingly. The objection raised by the learned Registrar of this court is maintained. The petitioner may approach the learned Chief Court for seeking remedy in accordance with law.

The appeal is disposed of in above terms.

Chief Judge.