

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
BRANCH REGISTRY SKARDU**

Before:

- 1. Mr. Justice, Syed Arshad Hussain Shah, CJ**
- 2. Mr. Justice, Wazir Shakil Ahmed, Judge**

CPLA No. 10/2018

(Against the judgment dated 08.10.2018, passed by the GB Chief Court, Gilgit in Writ Petition No. 09 /2018)

NasibaAyub D/o Ayub Khan R/o Markunja Tehsil & District Shigar

(Petitioner)

VERSUS

1. Provincial Government through the Chief Secretary Gilgit-Baltistan, Gilgit
2. Secretary Education Gilgit-Baltistan, Gilgit.
3. Director Education, Baltistan Region, Skardu
4. Secretary Finance, Gilgit-Baltistan, Gilgit
5. Deputy Director Education District Shigar
6. District Accounts Officer Skardu

(Respondents)

PRESENT:

For the Respondents: The Advocate General Gilgit-Baltistan.
For the Petitioner: Mr. Basharat Ali Advocate alongwith
Wazir Wilayat Ali AOR for the Petitioner

Date of Hearing : 03.11.2020

JUDGMENT

Wazir Shakil Ahmed, Judge.....The above titled CPLA has been preferred by the Petitioner being aggrieved with the Judgment/Order passed by the learned Gilgit-Baltistan Chief Court, dated 08.10.2018 in Writ Petition No. 09/2018, whereby, the learned Chief Court regretted to admit the petition filed by the

present Petitioner and the same was dismissed in limine, hence this petition for leave to Appeal.

3. The admitted facts gathered from the record of the case are that the Petitioner was appointed as contract Lady Teacher in Girls Primary School Shigar Khas @ Rs. 1,000/- per month with immediate effect and until further orders subject to availability of funds vide Office Order bearing No. DDE-2(11/2009, dated 19.05.2010. After about 03 years, vide Office Order dated 10.01.2013, the contract services of the Petitioner was regularized and she was duly appointed as M.T Teacher in BPS-09, against the vacant post of EST in Girls Primary School Shigar with immediate effect and until further orders.

4. Vide above Office Order, her service was to be governed under the terms and conditions laid down by the Government, from time to time. The Office of the answering respondent No.02 vide Office Order dated 10.03.2014, withdrew the initial appointment order of the Petitioner alongwith others 170, incumbents on the basis of ineligible/unfit for the posts held by them. The name of the Petitioner in the above list stands at serial No. 75.

5. There is a letter bearing No. DDE-SGR-2(2)/2015/2784 issued from the Office of the Deputy Director Shigar/respondent No. 5, addressed to the Director Education Baltistan Region/respondent No. 3, which shows that the present Petitioner has appeared before the interview/scrutiny committee and

declared her fit for service by the interview panel but due to non-production of professional certificate i.e PTC her initial appointment was withdrawn vide above mentioned Order dated 10.03.2014. The above letter further narrates that the Petitioner has provided PTC certificate issued by the Skill Development Council, the result declaration date is 02.06.2011. Vide above letter dated 26.10.2016, the respondent No. 5, has submitted case of the Petitioner for consideration to respondent No. 3/Director Education Baltistan Region.

6. It is regrettably noted that the respondent No.02, vide a letter dated 10.10.2017, addressed to the Petitioner, conveyed her that due to her illegal initial appointment as MT Lady Teacher BPS-09, in Education Department and since she had not got the requisite professional qualification i.e PTC certificate for her reconfirmation as Lady Teacher, the appeal of the Petitioner was hereby rejected and the Petitioner was therefore, declared unfit for reconfirmation due to lack of professional qualification.

7. It is also an admitted state of affair that truly the Petitioner has got no PTC certificate when she was initially appointed as contract Lady Teacher in Girls Primary School Shigar Khas, vide Office Order dated 19.05.2010, but soon after her appointment, the Petitioner had qualified the said PTC course and the PTC certificate was duly issued in her favor, the result declaration date of the said PTC course is shown to be

02.06.2011(Session 2010-2011), as has admitted by the respondent No.5 in his letter addressed to the respondent No. 3.

8. As has discussed above, We are of the firm opinion that the Petitioner should not have been thrown out from service, vide Office Order 10.03.2014, when the Petitioner has already passed PTC examination in the year 2010-2011.

9. During the perusal of the case as well as course of arguments, it was also found that the Petitioner had met with cologne cancer disease and during the course of which, she managed to get the PTC certificate well within time i.e in the year 2010-2011. The only ground on which the learned Chief Court dismissed the Writ Petition of the Petitioner was that of laches, this ground is also without any foot to stand with as the learned Chief Court has badly failed to appreciate the fact that the Petitioner had to fight the lethal disease of cologne cancer for the next 03-04 years and in the circumstances, no question of laches arise at all.

10. In the light of what has been discussed above, We are of firm opinion that the Petitioner has qualified the PTC course well within time i.e in the year 2010-2011, her appointment was wrongly rather illegally withdrawn on the basis of non-production of professional certificate i.e PTC certificate. We, therefore, are inclined to accept the instant CPLA and convert the same into an appeal by setting aside the impugned Judgment of the learned

Chief Court dated 08.10.2018, passed in Writ Petition No. 09/2018 with the direction to the answering respondents to reinstate the services of the Petitioner as Lady Teacher w.e.f the date of passing of short order of this Court i.e 03.11.2020. The period from 10.03.2014 to the passing of short order of this Court i.e 03.11.2020, shall be counted as leave without pay.

Announced

03.11.2020

Chief Judge

Judge

Whether the case is fit for reporting? **(Yes / No)**