JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

R.F.A.No.51 of 2014
Wasem Ahmed
Vs.
Federation of Pakistan through its Secretary, Ministry of Petroleum and Natural Resources, and another

Date of Hearing:	10.03.2021
Petitioner by:	M/s Mansoor Ahmad and Khalil-ur-Rehman Abbasi, Advocates
Respondents by:	Mr. Rehan-ud-Din Khan Golra, Advocate for respondent No.2 Mr. Saqlain Haider Awan, learned Assistant Attorney-General Mr. Ahmad Ali, Law Officer, H.D.I.P./respondent No.2

MIANGUL HASSAN AURANGZEB, J:- Through the instant regular first appeal, the appellant, Wasem Ahmed, impugns the order dated 16.01.2014 passed by the Court of the learned Civil Judge, Islamabad, whereby the application under Order VII, Rule 11 of the Code of Civil Procedure, 1908 **("C.P.C.")** filed by respondent No.2 (Hydrocarbon Development Institute of Pakistan), was allowed and the plaint in the appellant's suit for recovery of money and damages was rejected.

2. Learned counsel for the appellant submitted that the sole ground on which the plaint in the appellant's suit was rejected was that this Court had dismissed writ petition No.2350/2011 filed by the petitioner wherein he had assailed the order dated 29.07.2011 issued by respondent No.2; that in his suit, the appellant had not challenged the said order dated 29.07.2011 but had sought recovery of money and damages from respondent No.2; that paragraph 17 of the said suit sets out the appellant's monetary claim; that the appellant had claimed damages amounting to Rs.50,00,000/- and other service benefits amounting to Rs.17,10,028/-; that while serving as Project Director with respondent No.2 from 12.02.2008 to 30.06.2011, the appellant had not been paid *ad-hoc* relief allowance payable to Federal Civil Servants; and that the learned Civil Court could not have rejected

the plaint solely on the ground that his writ petition had been dismissed by this Court. Learned counsel for the appellant prayed for the appeal to be allowed and for the impugned order dated 16.01.2014, to be set-aside.

3. On the other hand, learned counsel for respondent No.2 submitted that the sum total of the appellant's entitlements were set out in his service agreement dated 01.12.2010; that the said agreement clearly provides that the appellant was to be paid a fixed pay of Rs.1,15,000/- per month; that there is no provision for the payment of allowances to the appellant other than the traveling allowance as admissible to civil servants; that in writ petition No.2350/2011, the appellant did not take a position that his dues had been withheld by respondent No.2; that even during his contractual service, the appellant never claimed that any allowances were payable to him; that respondent No.2 cannot be burdened with damages of Rs.50,00,000/- for deciding not to extend the appellant's contractual service; that the appellant was appointed for a fixed period and upon its expiry, respondent No.2 was under no obligation to retain the appellant's services; and that the impugned order does not suffer from any legal infirmity. Learned counsel for respondent No.2 prayed for the appeal to be dismissed.

4. We have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. The record shows that after going through a competitive process, the appellant was appointed by respondent No.2 as a Project Director for the project known as *"Capacity Building of Hydrocarbon Research and Development"* on contract basis with effect from 12.02.2008 to 30.06.2009. The duration of the appellant's contractual appointment was extended up to 30.06.2011. Clause 2 of the service agreement dated 01.12.2010 executed between the appellant and respondent No.2 is reproduced herein below:-

> ***"Whereas, the employer and the employee have agreed that the employee shall serve as Project Director in Hydrocarbon***

Development Institute of Pakistan, Islamabad Operations for a period of <u>One Year with effect from 01.07.2010</u>."

6. Respondent No.2 decided not to further extend the appellant's contractual employment beyond 30.06.2011. The additional charge of the post of Project Director was subsequently assigned to the Director-General of respondent No.2 / Institute.

7. Aggrieved by respondent No.2's decision not to extend the duration of his contract, the appellant filed writ petition No.2350/2011 before this Court. In the said writ petition, the appellant challenged respondent No.2's office order dated 29.07.2011 whereby additional charge of post of the Project Director was assigned to the Director-General of respondent No.2 / Institute. The appellant had also sought a direction to respondent No.2 to take him back on duty. Vide order dated 14.09.2011, the said writ petition was dismissed as being without any merit. In the said order, it was held that *"after 30.06.2011 no service agreement / contract between the petitioner and Hydrocarbon Development Institute of Pakistan was holding the field."*

8. After the dismissal of the said writ petition, the appellant, on 03.03.2012, filed a suit for recovery of money and damages against respondent No.2 before the Court of the learned Civil Judge, Islamabad. In the suit, the appellant had also challenged respondent No.2's office order dated 29.07.2011. Since this Court had, vide order dated 14.09.2011, dismissed the appellant's challenge to the said office order in writ petition No.2350/2011, the appellant could not have re-agitated this matter before the learned Civil Court.

9. As regards the appellant's claim for damages amounting to Rs.50,00,000/-, it ought to be borne in mind that respondent No.2 had not terminated the appellant's employment contract but had decided not to further extend his duration upon its expiry on 01.07.2011. Since the appellant had no vested right for the duration of his contractual appointment to be extended beyond the period fixed in the service agreement dated 01.12.2010, his claim for damages against respondent No.2 has no legal basis.

10. The service agreement dated 01.12.2010 clearly provides that the appellant would be paid a fixed salary of Rs.1,15,000/- per month. The appellant's appointment letter dated 12.02.2008 also shows that he was to be paid a *"fixed salary of Rs.1,15,000/- per month"* for the duration of his contractual appointment. There is no provision in the said agreement for the payment of any allowances to the appellant other than the traveling allowance. Therefore, the appellant's claim for the payment of *ad-hoc* relief allowance is unwarranted. The appellant's claim for his salary beyond 01.07.2011 when the period of his contractual appointment expired is also without any lawful justification. Since there was no cause for the appellant to sue respondent No.2 for recovery of money and damages, I am of the view that the learned Civil Court was correct in rejecting the plaint in the appellant's suit by invoking the provisions of Order VII, Rule 11 C.P.C.

11. In view of the above, the instant appeal, being devoid of merits, is dismissed with no order as to costs.

(LUBNA SALEEM PERVEZ)
JUDGE

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON 18/03/2021

(JUDGE) **(JUDGE)**

Qamar Khan*