

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Suit No.2814 of 2021

Rehan Hamid
Versus
Federation of Pakistan & others

Date	Order with signature of Judge
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Date of hearing: 24.08.2022 and 18.10.2022

Mr. Rafique Ahmed Kalwar a/w Mr. Muhammad Yasir and Mr. Kh. Naveed Ahmed a/w Ms. Afsheen Advocates for plaintiff.

Qazi Ayazuddin Qureshi, Assistant Attorney General for defendant No.1.

Mr. Ahsan Imam Rizvi along with M/s Jamaluddin Bukhari Sanauallah and Asadullah Shar for defendant No.2 along with Mr. Sattar Bux Soomro, Addl. D.G. Legal HESCO, Hyderabad.

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Muhammad Shafi Siddiqui, J.- In this suit for declaration, permanent injunction and damages, defendant No.2 has filed application for rejection of plaint under order VII Rule 11 CPC. The crucial ground, amongst others, that would decide the fate of the instant proceedings and that has been agitated and argued is as to the territorial jurisdiction of this Court. Very brief facts to decide such application, as are stated in the plaint/pleadings, are stated henceforth.

2. Plaintiff was appointed as Chief Executive Officer of Sindh Transmission & Dispatch Company of Government of Sindh on 26.08.2015 for a period of one year whereafter, through an independent process, in terms of letter dated 01.06.2021 plaintiff was appointed in defendant No.2 i.e. Hyderabad Electric Supply Company as CEO on contract for a period of three years on certain terms and conditions vide Annexure 'H'. Said appointment was in pursuance of an independent public notice by defendant No.2 for hiring its CEO. During his service with defendant No.2, while the plaintiff proceeded on ex-Pakistan leave to attend

marriage of his daughter vide notification dated 26.11.2021 he was removed from service, without showing any cause/reason for such removal by defendant No.2, as pleaded, which is impugned in these proceedings.

3. Learned counsel for defendant No.2 has mainly taken plea that in terms of Section 16 to 20 CPC onwards this Court has no jurisdiction as defendant No.2 i.e. employer is based at Hyderabad and cause accrued at Hyderabad when he was terminated. Learned counsel for plaintiff however has taken a plea that since the day when impugned notification was issued i.e. 26.11.2021 and the day when plaintiff came to know about such notification i.e. he (plaintiff) was in Karachi, therefore, the cause accrued within the territorial limit of this Court.

4. I have heard the learned counsel and perused material available on record.

5. In order to understand the question of territorial jurisdiction, the relevant provision in respect thereto are Sections 15 to 20 CPC and the relevant in the instant case appears to be Section 19 and 20 CPC which are reproduced for the sake of convenience:-

15. Court in which suits to be instituted. ...

16. Suits to be instituted where subject matter situate.— ...

17. Suits for immovable property situate within jurisdiction of different Courts.— ...

18. Place of institution of suit where local limit of jurisdiction of Courts are uncertain.--

19. Suit for compensation for wrongs to person or movables.--- Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted -at the option of the plaintiff in either of the said Courts.

20. Other suits to be instituted where defendants reside or cause of action arises.---- Subject to the limitations aforesaid, every suit shall be in a Court within the local limits of whose jurisdiction.

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

6. Perusal of Section 19 above, keeping in view compensation (damages in the instant suit) for wrong done to the plaintiff, if any, would show that in case the impugned notification would have been issued from jurisdiction of one Court and the defendant No.2 resides or carry on business in another, the plaintiff would have an option to choose the jurisdiction. However in the instant case the impugned notification was issued at Hyderabad and the issuing authority i.e. defendant is also based at Hyderabad and plaintiff works for gain in pursuance of employment contract at Hyderabad. The word “residence” in the present context is immaterial as, being an employee it is place of business that counts. Hence this Court has no jurisdiction as far as this section is concerned. Section 20 on the other hand clearly stipulates that where the defendant(s) resides or carry on business, the Court there will have the jurisdiction or where the cause of action accrued, which in the case in hand is admittedly Hyderabad where the defendant is carrying on business in connection with his contract and wherefrom the impugned notification originates. Thus, this section will also not come to rescue the plaintiff.

7. The only defence taken by the learned counsel for the plaintiff is that when he landed at Karachi Airport he came to know about impugned notification dated 26.11.2021, therefore, the cause accrued

within the territorial limit of this Court. I am afraid this kind of logic is not tenable in law. The cause of action was accrued when and from where the impugned notification was issued and also at place where in “pursuance of such agreement” he works or worked for gain, and not where he on his arrival or departure informed or where it was brought to his knowledge. Furthermore, the plaintiff was appointed with defendant at Hyderabad and throughout he was employed there, therefore, if this plea is taken to be lawful it will make entire scheme of jurisdiction as redundant and such was not the intention of legislation.

8. Perusal of paragraph 16 of the plaint also shows that plaintiff himself has pleaded that the cause of action accrued in favour of plaintiff on 26.11.2021 when the impugned notifications were issued by defendant No.1 and those notifications were admittedly issued at Hyderabad. Contents of para is reproduced below:-

“16. That the cause of action accrued in favour of the plaintiff on 26.11.2021 when the impugned notifications were issued by the defendant No.1. However, the cause of action accruing in favour of the plaintiff is such that the same shall continue to subsist till such time the relief prayed for herein under is accordingly granted in favour of the plaintiff.”

9. Indeed, what is being gathered from the defence taken by the plaintiff is that he is treating the knowledge of impugned notice to be the cause of action. If his plea is taken to be tenable, all those who are away from the place of posting for temporary stay, will opt to invoke the jurisdiction of their temporary or transit stay on the ground that they were served or acquired knowledge at such place i.e. other than their place of employment, so that they could frustrate the proceedings to be initiated against them. Hence, I am not inclined to concur the arguments as raised by the learned counsel for plaintiff. Admittedly, the plaintiff has also not challenged the ultimate resolution of defendant No.2 dated 28.11.2021.

10. In view of above, I am of view that plaintiff, being a contractual employee, has not been able to show this Court to have the territorial jurisdiction and hence the application is being considered under Order VII Rule 10 CPC and plaint is returned to plaintiff. Office to retain one set of pleadings.

Dated: 26.10.2022

J U D G E