

before Service Tribunal under the Service Tribunal Act and the jurisdiction of this Court was barred under Article 212 of the Constitution of Islamic Republic of Pakistan. The plaintiff then commenced litigation by filing an appeal before the Federal Service Tribunal and the Tribunal was pleased to dismiss the appeal vide order dated 27.7.2001, thereby holding that the impugned orders of the dismissal of the plaintiff were rightly passed and were in accordance with law. The Tribunal found no reason to interfere in the same. Aggrieved of the dismissal of his appeals from the Tribunal, the plaintiff preferred Civil Petitions Nos.2648 and 2649 of 2001 before Hon'ble Supreme Court and on 18.01.2002 the Bench of Hon'ble Supreme Court found no substance in the said petitions and the leave was refused.

4. The plaintiff again after exhausting the remedy upto Hon'ble Supreme Court, filed C.P No.D-3647/2010 before this Court, which too was dismissed in limine following Tanveer-ur-Rehman's case. This dismissal of petition was then followed yet again by a suit before Senior Civil Judge Thatta bearing Suit No.91/2011 wherein the plaint was rejected under Order VII Rule 11 CPC on 02.03.2012. The plaintiff preferred appeal bearing Civil Appeal No.28/2012 before the 2nd Additional District Judge, Thatta, which met the same fate on 08.12.2012. The plaintiff did not lose hope and filed Second Appeal No.03/2014, however, that too was dismissed in limine on 19.05.2014, as being on concurrent findings. The matter for the second time was taken to Hon'ble Supreme Court wherein after arguing the matter at length, permission was granted to withdraw the petition, however, it was for the purpose of availing appropriate remedy. The appropriate remedy as "discovered" by the plaintiff was

in this suit for recovery of damages. This suit for damages was based on a claim of unlawful and illegal dismissal.

5. Not even remotely, after two complete rounds of litigation upto Hon'ble Supreme Court can it be imagined that the dismissal of the plaintiff could be held as unlawful and consequently damages could be granted in this suit. In the first round itself, the Tribunal and the subsequent Hon'ble Courts held that the dismissal was lawful. Granting damages on the preposition that it was an unlawful termination, would amounts to ignoring and bypassing the judgments of the Senior Civil Judge, Tribunal, this Court as well as Hon'ble Supreme Court. There is no cavil that the dismissal of the plaintiff from the service was held to be lawful and hence the plaintiff cannot count on the imaginary unlawful dismissal, as he claimed, to claim damages. The cause of action disclosed in the plaint is of 2015 when the petition for leave to appeal was withdrawn to enable him to seek appropriate remedy. The cause of action to claim damages ceased when his dismissal was held lawful and confirmed. Damages could only follow on the count of unlawful dismissal in terms of pleadings of plaintiff.

6. I do not find this to be a lawful remedy, since no cause of action is survived to claim such damages on alleged unlawful dismissal. I could only imagine to award damages provided his dismissal from service is held to be lawful which perhaps is not even remotely possible on account of concurrent findings in two rounds of litigations upto Hon'ble Supreme Court. Thus cause doesn't survive.

7. Since cause of action does not survive, rather cease to exist in view of the aforesaid facts, I deem it appropriate to reject the plaint

under Order VII Rule 11 CPC on the basis of the averments raised in the plaint itself.

8. These are the reasons for the short order of even date, whereby the plaint was rejected.

JUDGE

Karachi
Dated: 22.02.2022

Ayaz Gul