

**JUDGEMENT SHEET  
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.  
JUDICIAL DEPARTMENT.**

**I.C.A. No. 12 of 2017**

**Khawar Mushtaq  
VS**

**Federation of Pakistan through Secretary, Ministry of Petroleum and Natural  
Resources & three others**

**Appellant by : Mir Aurangzaib, Advocate.**

**Respondent by: : Mr. Mohsin Bashir, Advocate.  
(For Respondents/OGDCL)**

**Date of decision : 19.04.2022**

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**SAMAN RAFAT IMTIAZ, J.:-** Through the instant appeal, the Appellant has challenged the Judgment dated 16.12.2016 (“**Impugned Judgment**”) whereby the learned Single Judge-in-Chambers has dismissed the Writ Petition No.1955 of 2016 filed by the Appellant.

2. The facts, as per the Memo of Appeal, are that the Appellant completed his Matriculation and Intermediate from BISE Rawalpindi by securing Grade-A and Grade A-1; B.Sc. Mechatronics Engineering from University of Engineering and Technology, Taxila and M.Sc. Mechanical Engineering with specialization in Applied Mechanics and Design. The Appellant is registered with the Pakistan Engineering Council and he joined Sprint Oil & Gas Services FZ-Pakistan as Trainee Maintenance Engineer. The Respondent No. 2 advertised various posts and invited applications for jobs including that of Assistant Engineer (Mechanical/Petroleum/Electrical/Electronics), which the Appellant applied for and was called for an interview on 15.12.2015. Thereafter he was issued Appointment Letter dated 08.01.2016 on contract basis which was subject to medical examination of the Appellant and providing valid and authentic documents. Further that the Appellant after receiving the Appointment

Letter reported for duty to the Respondents No. 2 and 3 but without assigning any reason they refused to take him on duty.

3. Learned counsel for the Appellant, *inter alia*, contended that the Appellant is well qualified for the position; that the Appellant was verbally told that he does not possess the required qualification which is not true; that the Appellant submitted applications for fair and lawful action but to no avail; that the learned Single Bench failed to appreciate the law and facts of the case; that the Rules of OGDCL have been held to be statutory in nature by the Honourable Supreme Court of Pakistan in various judgments as well as by this Court, therefore, the writ petition could not have been dismissed on this ground; that even otherwise the question about the Rules being statutory or non-statutory is not material because the Appellant had filed the Petition for certiorari for a direction against the Respondents to do their lawful duty by implementing the Appointment Letter of the Appellant; that the Appointment Letter of the Appellant is still in the field since January, 2016 and there is no justification for Respondents to keep him away from the office and not allowing him to join; that the Appellant has been condemned unheard and without assigning any justifiable reason he has been refused to be taken on job; that the verbal communication for not having the required qualification is neither legal nor lawful; that the apprehension is that the Respondents are trying to adjust somebody else in place of Appellant on the said job; that the settled principle of law and principle of locus poenitentiae is that once a right is accrued it cannot be taken back without due course of law; that the Respondents are estopped by their own conduct and they are under obligation to honor their Appointment Letter. Learned counsel for the Appellant prayed for acceptance of the instant appeal by setting aside the Impugned Judgment and to declare the actions of the Respondents as illegal, unlawful, unjustified without jurisdiction and for direction to take the Appellant on duty in the interest of justice and equity.

4. The learned counsel for the Respondents, *inter alia*, submitted that the Impugned Judgment is well reasoned and within the four corners of the law; that OGDCL does not have statutory rules and as such the writ was not maintainable on this ground alone; even otherwise, the Appellant was appointed on contract basis and his service could be terminated by either party without notice or pay in lieu thereof during the probationary period, therefore no illegality has been committed by the Respondents; that writ jurisdiction is not amenable for enforcement of contractual rights; that without prejudice to the foregoing, the appointment was admittedly subject to passing medical fitness examination and submission of valid and authentic documents, which the Appellant failed to provide.

5. Arguments heard and record perused.

6. That no illegality or infirmity of law has been pointed out in the Impugned Judgment by the learned counsel for the Appellant. The learned Single Judge in Chamber correctly concluded that writ is not maintainable in view of the fact that OGDCL does not have statutory rules of service and due to the fact that the Appellant was seeking enforcement of contractual rights which also according to well settled law cannot be agitated while invoking the Constitutional jurisdiction of this Court.

7. Furthermore, it is observed that admittedly according to Clause 3 of the Appellant's Appointment Letter dated 08.01.2016 issued by OGDCL the Appellant's appointment was subject to passing of medical fitness examination and submission of valid and authentic documents. No proof of compliance of such clause was provided by the Appellant. On the other hand the Respondent Nos. 2 to 4 specifically alleged that this requirement was not satisfied by the Appellant. Therefore, whether or not such requirement was satisfied by the Appellant is a disputed question of fact which was yet another reason why the writ was not maintainable.

8. It is observed that the grounds raised in the instant Intra Court Appeal are against well settled principles of law. As such, we find that the instant appeal was absolutely frivolous which resulted in wastage of previous time of this Court due to which we consider it appropriate to impose cost against the Appellant.

9. For the foregoing reasons, instant appeal is hereby **dismissed** as being devoid of any merit and cost of Rs. Rs. 20,000/- is imposed on the Appellant which shall be deposited by the Appellant with the Deputy Registrar Judicial of this Court within the four weeks' time.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

**(SAMAN RAFAT IMTIAZ)**  
**JUDGE**

JUNAID