



محكمة قطر الدولية
ومركز تسوية المنازعات
QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

In the name of His Highness Sheikh Tamim bin Hamad Al Thani,
Emir of the State of Qatar

Neutral Citation: [2024] QIC (A) 9

IN THE QATAR FINANCIAL CENTRE
CIVIL AND COMMERCIAL COURT
APPELLATE DIVISION

[On appeal from [2024] QIC (F) 11]

Date: 23 June 2024

CASE NO: CTFIC0074/2023

ZAHIR MAKAWY

Claimant/Respondent

V

AL AWAEEL CAPTIVE INSURANCE COMPANY LLC

Defendant/Applicant

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Sir William Blair

Justice Lord Hamilton

Order

1. Permission to appeal is refused.

Judgment

1. The Applicant, by an application dated 29 April 2024, seeks permission to appeal from the judgment of the First Instance Circuit (Justices George Arestis, Fritz Brand and Dr Yongjian Zhang; [2024] QIC (F) 11) for QAR 150,832 with interest. No order for costs was made.

Proceedings before the First Instance Circuit

2. The Claimant/Respondent was employed by the Applicant as its General Manager from 30 January 2020 until 28 May 2022, when his employment was terminated by virtue of one month's notice given by the Applicant on 28 April 2022. The Claimant had earlier been employed by 7 Brothers Holding Company, the parent company of the Applicant ('**7 Brothers**'). That company is established in Qatar but outside the Qatar Financial Centre ('**QFC**').
3. The Claimant initially brought proceedings before the Employment Standards Office of the QFC against both the Applicant and 7 Brothers. Those proceedings were subsequently withdrawn by the Claimant, who thereafter successfully brought proceedings before the Qatari Labour Court in respect of his claim against 7 Brothers. The Claimant then instituted the present proceedings against the Applicant which became a registered QFC entity on 30 January 2020.
4. Before the First Instance Circuit the Claimant made five claims. Two of these, a claim for compensation for arbitrary dismissal and a claim for increased salary, were rejected by that Court on various grounds. The remaining three claims (for unpaid annual leave, travel expenses and end of service benefit) were successful. In summary, the total claimed by the Claimant was QAR 608,832, and the amount found to be due was QAR 150,832.

The application for permission to appeal

5. Article 35.1 of the Court’s Regulations and Procedural Rules (the ‘**Rules**’) provides:

A first instance judgment or decision of the Court will usually be final. However, if there are substantial grounds for considering that a judgment or decision is erroneous and there is a significant risk that it will result in serious injustice, then a Court consisting of three Judges...can give permission for an appeal to the Appellate Division of the Court.

6. As explained in Section 5 of the Court’s standard form for making an application for permission to appeal, such applications “*will generally be dealt with on the papers....*”. If an Applicant believes that its application requires an oral hearing, it should explain why it believes that to be the case. The Applicant stated in its response in Section 5 of the form “*that the appeal will not require an oral hearing and memo exchange with supporting document (sic) will be enough*”. It had earlier (in paragraphs 6 and 7 of Section 4) stated, among other things, that it “*reserves its right to submit further documentation and reasons in support of its appeal*” and “*intends to provide additional evidence and arguments to supplement its appeal...*”.
7. The Registrar, on receipt of the application but prior to its submission to us, drew to the attention of the Applicant’s lawyers by e-mail that in the application the Applicant “*must explain your arguments in full*” (**original emphasis**) and that it must “*also simultaneously file [any] documentation upon which [it relies] ie along with the application*”. He drew attention to the Court’s User Guide (the ‘**Maroon Book**’) which is published on the Court’s website. Paragraph 21.2 of the Maroon Book states:

The Appeal Notice must set out-in full- the grounds of appeal.

[“The Appeal Notice” in this context refers to Section 4 of the application form.]

8. The Applicant’s lawyers, in response to the Registrar’s communication, stated that they had nothing to add.

Our refusal of the application

9. As is clear from the terms of article 35 of the Rules, the scope of appeal from a judgment of the First Instance Circuit is restricted. The overriding objective of the Court is to deal with all cases justly, including ensuring that litigation before it takes place expeditiously and effectively (articles 4.1 and 4.3.1). It follows that, where an application is made for

permission to appeal against a judgment or decision of the First Instance Circuit, it is incumbent on the Applicant to include in that application (or in documentation submitted with it) a full statement of the basis on which it contends that the application should be granted. In the absence of such a statement, the Judges dealing with the application will be unable to determine it justly and expeditiously.

10. It is plain that the Applicant in this case has failed to comply with that duty. It is also plain that it, and its lawyers were, when completing the application form, ignorant of, or disregarded, the rules and practices of this Court. An applicant for permission to appeal has no right to “*reserve(s) its right to submit further documentation and reasons in support of its appeal at a later stage*”; nor, whatever intention it may have, does it have a right to “*provide additional evidence and arguments to supplement its appeal*”.
11. More specifically, in paragraph 3 of Section 4 of the application form, the Applicant seeks to appeal against a finding by the First Instance Circuit “*regarding the Claimant’s entitlement to compensation for arbitrary termination of his employment contract*”. In fact, the Court did not decide whether the termination of employment was arbitrary or not; rather, it rejected that claim on the ground that there was no evidence proving the Claimant’s allegation of damage in that respect. There is, accordingly, as regards that claim, no decision adverse to the Applicant to appeal against.
12. In paragraph 4 the Applicant complains of the First Instance Circuit’s decision on an issue of res judicata raised by the Applicant before that Court. However, that decision was plainly right. The earlier proceedings in the QFC (before the Employment Standards Office) were, on advice, withdrawn by the Claimant before any adjudication was made in respect of either Defendant in those proceedings; there was no adjudication against the Applicant in the Qatari Labour Court. There having been no “*res judicata*” as between the Applicant and the Claimant, any defence based on that doctrine was bound to fail. This is not an arguable ground of appeal.
13. In paragraph 5 the Applicant complains that the First Instance Circuit’s acceptance
... of the Claimant’s claims for unpaid salaries, leave salary, travel expenses, and end-of-service benefits without sufficient evidence or justification

is erroneous. The Court failed to require adequate proof from the claimant regarding these claims and instead relied on unsubstantiated assertions.

14. In fact, the First Instance Circuit rejected the claim for “*unpaid salaries*”; so, there is nothing to appeal against in that regard. It did, on the other hand, accept the claims in respect of leave salary, travel expenses and end of service benefit. It did so, however, after careful consideration of such material as was laid before it by the parties (see paragraphs 15-20 of the judgment). Some, at least, of these claims were not denied, or at least not seriously disputed, by the Applicant. There are no substantial grounds for considering that the Court’s decision was erroneous; nor is there a significant risk that it will result in serious injustice.

15. For these reasons this application must be refused.

Rules concerning applications for permission to appeal

16. We would add this. On this occasion we have dealt with this application at some length, despite the Applicant’s regrettable failure to remedy the deficiencies in its application clearly set out by the Registrar.

17. It may be that some lawyers acting for parties in this Court may not be as familiar with its rules and established practices as they are with those of other courts. It is, of course, essential, if they are to represent parties before this Court, that they take proper steps to familiarise themselves with its rules and practices, including the terms of the Maroon Book. As its introduction states, the Maroon Book is:

... an aide-memoire which will allow [parties or their lawyers] quickly to understand the passage of litigation through the Court, simplifying and explaining rules where necessary. This User Guide is divided into a number of different sections, each one focusing upon a different part of the litigation process. Relevant court rules will be highlighted so that readers can quickly be directed to the source material – namely the Regulations and Procedural Rules of the Court (the ‘Rules’) – which is the first port of call when it comes to Court procedure.

18. The Registrar of the Court is also prepared to assist by drawing attention to the applicable rules and practices, as he did in this case.

19. In the present case, the lawyers for the Applicant chose to disregard the matters to which the Registrar drew attention. Given the availability of the Maroon Book, the willingness of the Registrar to assist and the Registrar's email, it is a matter of deep regret that the Applicant's lawyers have pursued this application in the way in which they have done. The way this application was initially made and then pursued after the Registrar's email was, in short, an abuse of the process of the court.

20. In the future, and having regard to the overriding objective of the Court as stated in article 4 of the Rules to deal with all cases justly, including ensuring that litigation before it takes place expeditiously and effectively, applications made and pursued in the way in which this application was made and pursued will be dealt with by a summary order in appropriate terms simply stating that this is the Court's conclusion.

By the Court,



[signed]

Lord Thomas of Cwmgiedd, President

A signed copy of this Judgment has been filed with the Registry.

Representation

The Claimant/Respondent was unrepresented and did not appear.

The Defendant/Applicant was represented by the Qatar International Law Firm (Doha, Qatar).