



دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580

شارع الزبيري – تلفاكس: 270283 – صنعاء – ج.ي

E-mail: m.s.dafallah@gmail.com

(Translated from Arabic)

**Republic of Yemen
Supreme Court
Civil Circuit – Jury (B)**

No. 74 of 1439H

Date 22/Jan./2018

Verdict

On Wednesday, 25/Rabea Awal/1439 H.C., corresponding to 13/Dec./2017 A.D., at the Supreme Court's premises, the circuit held its session with the jury composed of :

Judge/ Abdullah Ahmed Al-Hamzi	President
Judge/Hasan Zaid Al-Mesbahi	Member
Judge/ Mohammed Hussein Al-Shami	Member
Judge/Mohammed Al-Ezzi M. Al-Azzani	Member
Judge/Ali Ali Mosleh Awadh	Member

To consider and determine the Appeal To Supreme Court No. (59668) filed by :

Appellant "DNO Co." of Norway through the proxy of its lawyer against the appellees who number 175 of the company's workers and employees, the first of whom is Mr. Ahmed Hussein Mohammed Al-Tashi and the last is Mr. Yahya Ahsan Yahya Amran whose names and jobs are stated at the beginning of the appeal to supreme court, in respect of the Sana'a Court of Appeal's verdict No. 98 of 1438H.C. dated 23/Jumad Awal/1438H.C. corresponding to 20/Feb./2017 A.D. which was rendered by the First Chamber with the following jury:

Judge/Abdulhafidh Abdulraqib Al-Banna	-	President
Judge/Ali Taher Al-Hakim	-	Member
Judge/Abdulqaher Hasan Al-Shaibani	-	Member

and which is preceded by Sana'a Labor Arbitration Primary Committee's verdict No. (1/1437H) dated 28/10/1437 H.C. corresponding to 03/Aug./2016 A.D. which was rendered by the jury:

Judge/Rezq Ahmed Al-Sudani	-	President
Judge/Hani M. Al-Idressi – employer's representative	-	Member
Judge/Fuad Ahmed Al-Sabari, workers representative	-	Member





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580 شارع الزبيري – تلفاكس: 270283 – صنعاء – ج.ي
E-mail: m.s.dafallah@gmail.com

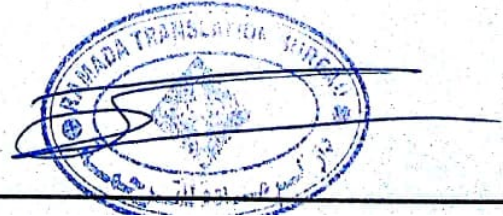
Facts & Proceedings

The circuit heard the report prepared by the Chamber member and which comprised the following :

Firstly : Arbitration Committee 's Verdict

Suit and requests :

The facts and proceedings result from the labor suit lodged by the claimants lawyer /Hesham Abdulfattah Bazara against the defendant DNO Company of Norway and the summary of which is that the claimants are employees of the defendant and the least service of one of them is four years , and that on 26/04/2015, the defendant emailed a letter containing a notice of termination of service to its employees and that it will suspend operation in the blocks operated by it (Blocks 32 , 43 and 47), and, accordingly, on 28/04/2015, the coordination board of the defendant Company Trade Union which represents all the company's employees, submitted a complaint to Ministry of Oil represented by Assistant Deputy Minister for Minerals who referred the case to the Legal Affairs Department for information and review and giving the legal opinion, and based upon the said complaint, Director General of Labor Office in Ministry of Oil on 06/05/2015 addressed a letter in response to the request for legal opinion on the extent of the violation committed by the defendant company in its decision issued in respect of the layoff of its employees and consequently to call the company to come to the Ministry's headquarters, and a letter was made to the company dated 13/05/2015 to appear at Ministry headquarters, but neither the company nor its representative appeared at Ministry headquarters to answer the complaint ,and thereby the defendant overrode the law and caused damage to the claimants and highly disrespected the effective laws and the concluded agreements, as she terminated its employees and denied the existence of the governmental side of the State of Yemen as the key and official partner in the said agreement and in the operation by the defendant of the oil blocks (32, 43 and 47) , and thereby the State of Yemen is deemed a key partner and, consequently, the defendant may not unilaterally take a decision to the prejudice of the homeland's or the national staff's interest despite the State's disagreement with the defendant company's decision in respect of the suspension of the operation processes in Blocks (32 – 43) but rather Ministry emphasized on the defendant to continue the operating processes as per the letter addressed by





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

شارع الزبيري - تلفاكس: 270283 - صنعاء - ج.ي
Zubairi Street - Telefax: 270283 - Sana'a - R.O.Y. Mobile: 733526580
E-mail: m.s.dafallah@gmail.com

Vice Minister of Oil dated 01/04/2015, and what is established is the defendant's bad faith and intending to cause damage to the claimants for that it refused to pay the salaries of claimants since the month of June 2015 up to the date of their restoration to their jobs despite that the defendant in its letter stated the suspension of operation and that suspension solely does not give it the right to lay off the employees and to terminate their services despite Ministry of Oil's disagreement with its request to suspend operation, but the defendant insisted to lay off its employees, and this what makes the defendant obliged to pay each employee's salary for the decision being wrong and illegal, and also the State represented by Ministry of Oil considered the defendant's decision as a wrong individual decision and confirmed the same in many occasions in its letters on the necessity of maintaining the employees for their being a national staff on which the State incurred a lot for the sake to qualify them, and Ministry had been requesting in the said letters to reinstate the claimants to their work and to continue the oil operations, and, consequently, what was done by the company demonstrates the extent of its arbitrariness and intransigence and refusal to restore the claimants to their jobs and its continuation to withhold giving their salaries which are deemed a right which may not be prejudiced or withheld except with a judicial ruling, and pursuant to Article (63) of Labour Law that the workers are entitled for full pay during the work suspension and the employment contract shall remain valid and that what makes the claimants entitled for their full salaries since the month of June 2015 until their restoration to their jobs and their entitlement for all the privileges which they were getting during their work period such as Ramadan bonusand they requested at the end of their claim to obligate the defendant to pay them their salaries as shown in the statement indicated in the primary judgment against each employee's name since the month of June 2015 until the date of their restoration to their jobs, to obligate the defendant to reinstate all the employees to their jobs, to obligate the defendant to pay the medication charges of each employee as provided for in the Company's internal regulation, to obligate the defendant to pay one moth salary to each employee as Ramadan bonus which is due in the month of June 2015 with the judgment to include litigation expenses and lawyer's fees and that the judgment is to be inclusive of summary enforcement.





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580

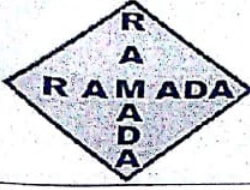
شارع الزبيري – تلفاكس: 270283 – صنعاء – ج.ي

E-mail: m.s.dafallah@gmail.com

Response:

The defendant company DNO Yemen of Norway answered through its lawyer Mr. Saleh Al-Tayar with a response included that the defendant company followed the legal ways in terminating the employment contracts with the claimants and as per the procedures stipulated in the Labor Law and that there is no legal provision obligating the employer to restore the dispensed with employee to his job and that the employment contract concluded between the company and the employee has entitled either party to terminate the contract at any time under one month written notice to the other party, and the contract is binding upon both parties, and also the legislator has given the employer an absolute right and authority to unilaterally terminate the employment contract in cases set forth in the law and whenever one of such cases is there and the employer terminated the employment relationship then no responsibility shall be born by the employer, and of the said cases are those set forth in article (36) of Labor Law, and also the defendant company was forced to suspend production in Yemen due to the security situation encountered by the country and that what entailed downsizing because there was no need for such employees, therefore, the company exercised its legal right as prescribed by article (36) of Labor Law, and the company notified the employees in writing on 26/04/2015 about its intention to terminate the employment contracts with them on 31/05/2015, i.e. the termination decision becomes effective only after 35 days from the date of the notice a copy of which was given to the competent labor office, and this what confirms that the termination was legally conducted in accordance with the procedures provided for in Labor Law, and by the expiration of the contractual relationship between the claimants and the defendant, consequently, the defendant is not legally obliged to reinstate them for the lack of a legal provision obligating to do so and thereby the company is not obliged to give them any wages or salaries for the expiration of the contractual relationship that gives the defendant the right to terminate employment for the stoppage of work and downsizing due to the security and economic situations which the country is encountering, and for that salary is against work and no employee is entitled therefor and the employer is not obligated thereby except during the validity of the contractual relationship and that the employee should have performed the work entrusted to him and this is what is not existing in this case and this means the illegality of the claim and the demands, and he (the defendant's lawyer) requested to reject the claim in form and subject and to charge the litigation expenses and lawyer's fees to the claimants etc.





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580

شارع الزبيري – تلفاكس: 270283 – صنعاء – ج.ي

E-mail: m.s.dafallah@gmail.com

Procedures and verdict wording :

Arbitration Committee proceeded with the suit consideration procedures and heard the pleadings and defences of both parties and the documents and evidences presented by each party until the procedures thereof are duly fulfilled then it booked the case for judgment and, after reasoning and deliberation, it rendered its verdict with the following text:

- 1- To obligate the defendant (DNO) to pay to the claimants , who number (175 employees) , the first of whom is Mr. Ahmed Hussein Al-Tashi and the last is Mr. Yahya Ahsan Amran, as per the attached list, the following dues:
 - i) To pay to the claimants salaries starting from the month of June 2015 at the rate of 75% of their salaries in accordance with what was stated in the facts and merits.
 - ii) To pay to the claimants Ramadan bonus for the year 1436H.C. , corresponding to the year 2015 A.D.
 - iii) To reimburse the claimants for the attorney charges and fees of an amount of YER50,000 (Fifty thousand Yemeni riyals) to each employee.
- 2- It was proved that the claimants who number 18 employees the first of whom is Mr. Ahmed Masood Tama and the last is Mr. Mohammed Nasser Qaid Haider as per the attached list have received their legal dues in accordance to what was explained by us in the facts.
- 3- The judgment shall include summary enforcement associated with sufficient and certain guarantee.
- 4- The facts and merits shall be deemed an integral part of the verdict text.

Secondly : Appellate verdict

The verdict was appealed by the appellant/DNO Yemen of Norway against the appellees who number 175 workers the first of whom is Ahmed Hussein





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

شارع الزبيري - تلفاكس: 270283 - صنعاء - ج.ي
Zubairi Street - Telefax: 270283 - Sana'a - R.O.Y. Mobile: 733526580
E-mail: m.s.dafallah@gmail.com

Mohammed Al-Tashi and the last is Yahya Ahsan Amran, and the summary of the appeal petition contents and what was raised before Chamber described the judgment as based on violating the applicable law and contrary to what is established in the papers which are considered as a decisive evidence disproving the claim, and also the Arbitration Committee has ignored all the legal, procedural and objective rights legally secured for the defendant and omitted all the aspects of its defense and decided its liability contrary to the law and beyond the employment relationship by accepting a claim filed with procedures contrary to law and awarding to whom who is involved in the litigation up to the other aspects of invalidity for the claim being initially filed before the Arbitration Committee without taking the legal way as the workers did not file a complaint or a request through the labor office and the company was not summoned to appear before Labor Office according to law and rendered its judgment for a party having no legal capacity as lawyer/Hesham Bazara is not retained by the employees but by the trade union whose legal capacity has gone and ended and Arbitration Committee as well as Court of Appeal should have taken this and this is what we adhere to and plead before the appeal for the lack of the capacity of the claim filer makes the verdict invalid if not inexistent, and what was stated by the Committee in its verdict facts and under which it judged that the employment relationship is still continuing is contrary to what is established in the papers and the rules of confirmation and this is what is acknowledged by the worker's lawyer in his petition but the Committee alleged that the company did not follow the legal conduct and he (company's lawyer) cited therein until he ended his petition of appeal by requesting to accept the appeal in form and subject to cancel the verdict and to decide the expiration of the employment relationship in May 2015 and waiver by the appellees of any demands and to charge them with litigation expenses and lawyer's fees.

Response

The Appellees responded through their lawyer Mr. Hesham Bazara with a petition of defense requesting not to accept the appeal for its being against a final and non-appealable judgment for judgment being rendered based upon a suit filed by the pleaders where the suit demands are summarized in stopping the termination decision by reinstating the workers to their jobs and paying them their dues and salaries on a retroactive basis from the date of their suspension by the respondent, where article (284) of Pleading stipulated that primary courts judgments may be appealed except for what is excluded in accordance with this law or by another legal provision, and Yemen Labor





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

شارع الزبيري - تلفاكس: 270283 - صنعاء - ج.ي
Zubairi Street - Telefax: 270283 - Sana'a - R.O.Y. Mobile: 733526580
E-mail: m.s.dafallah@gmail.com

Law has made the decisions issued by Arbitration Committee as final and not subject to appeal and confined them to some suits of which Clause (b) of article (135) of Labor Law, and of which the suits related to the stoppage of termination decisions and these may not be appealed for their being final and non-appealable etc..and he requested to accept the plea in form and subject for it being related to the public order, to reject the appeal, to support the Arbitration Committee 's judgment and to award them the litigation expenses and lawyer's fees.

Response to the plea

Company's lawyer responded to the plea that the appellee workers are claimants as stated in the appealed verdict and its preconditioned that any plea or response should be presented by them or their assignee in accordance with article (74) Pleading , and this is what is not fulfilled by the plea presenter and, consequently, the plea is presented by a party having no legal capacity entailing not to accept it, and in respect of the dissolved union in whose name the plea was presented, it is not a party to the verdict which was issued in the name and favor of the workers and also the union is no longer has a legal existence for the expiration of the employment relationship between the appellant and the appellees and which the committee alleged in its judgment as still continuing and this what confirms that the union is not a legal litigant to be validly litigated or entitled to litigate for the workers entailing not to accept the plea for its being presented by a party with no legal capacity etc... and he requested , on an original basis not to accept the plea and on a precautionary basis to postpone determining the plea to post-consideration of the appeal and to determine both with one judgment.

Procedures:

Chamber proceeded with the procedures of considering the plea and the response and capacities were fulfilled as the appellees lawyer presented powers of attorney to him by the appellees and requested to attach/arrest the company's properties and it decided to attach the company's properties including balances and guarantees with Ministry of Oil and rejected the grievance presented by the company's lawyer in respect of the attachment decision and then it decided to book the case to determine the plea.





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580 شارع الزبيري – تلفاكس: 270283 – صنعاء – ج.ي
E-mail: m.s.dafallah@gmail.com

Verdict reasons and text:

Before discussing the validity or invalidity of the plea, it must responded to what is contained in the respondent's sheet and which is based upon the following:

The non-capacity of the dissolved union in presenting the plea and the non-capacity of the lawyer, we respond thereto that what is provided in article (74) Pleading has nothing to do with what is undertaken by the union and defending for its members falls within its functions and the union has the capacity to file such claims and to retain lawyers to file suits and its capacity therein is derived from the Labor Unions Regulatory Act No. (35) of 2002 in addition to that the workers once that have elected the union they have impliedly authorized the union, according to law, to defend for them in addition to that lawyer Hesham Bazara presented the claim before the Arbitration Committee under a power of attorney (POA) from the union and a copy of the said POA is kept in the case file and the defendant's lawyer did not object thereto (presently the respondent) , and for the aforesaid, the union has the capacity to defend for the workers and to retain lawyer to file claims on its behalf , on one hand, and on the other hand, Labor Unions Regulatory Act No. (35) of 2002 is a special law and Pleading law is a general law and the special law prevails over the general law, and, therefore, what is stated in this portion is not reliable.

As for what is stated in his response with denial to the plea and that the inference from article (135) of Labor Law is a wrong basing where the exception stated in clause (b) is pertaining to the stoppage of termination decisions ..etc., thus we respond thereto by saying article (135) of Yemen Labor Law did not rely upon what comes in the verdict wording but it relied upon what comes in the claim and the said article text came as follows:

- A) Subject to Arbitration Law, Arbitration Committee s decisions shall be final and non-appealable in the following lawsuits :
- B) Lawsuits related to the stoppage of termination decisions.

And here we find that law focused on what comes in the claim and not on the verdict wording and this law is a special law prevailing over the general law, so, and whereas the pleaders' claim is based upon the illegality of the workers layoff decision and they demanded their salaries up to the date of reinstating them to their jobs , this means the validity of the pleading presented by the workers lawyer Hesham Bazara in accordance with the exception stated in article No. (184) Pleading, and article (135) clause (b) of Yemen Labor Law,





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

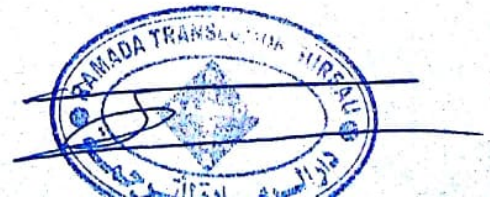
Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580 شارع الزبيري – تلفاكس: 270283 – صنعاء – ج.ي
E-mail: m.s.dafallah@gmail.com

and as the matter being so and pursuant to article 284 of Pleading law No. (40) of 2002 and article (135) clause (b) of Yemen Labor Law No. 5 of 1995, First Civil Chamber of Sana'a Court of Appeal renders its verdict as follows:

- 1- Acceptance of the pleading presented by the lawyer of the appellees numbering one hundred seventy five workers as mentioned in the primary verdict issued by the Arbitration Committee under No. 1 of 1437 dated 28/10/1437 H.C. corresponding to 03/08/2016 A.D.
- 2- Dismissal of the appeal lodged by DNO Yemen of Norway for its being legally impermissible.
- 3- The verdict rendered by the Arbitration Committee under No. 1 of 1437 dated 28/10/1437 H.C. corresponding to 03/08/2016 A.D. is deemed a final and enforceable verdict.

Thirdly : Appeal to Supreme Court

The appellant presented with a petition of appeal to Supreme Court through its retained lawyer indicating at the beginning thereof the names of the appellees who number 175 workers and their jobs, the first of whom is Ahmed Hussein Mohammed Al-Tashi and the last is Yahya Ahsan Yahya Amran then it narrated the case events in the primary and appellate phases and what was rendered thereon by the two courts of the subject then in the clause Six it addressed the reasons for appeal on the appellate verdict and the summary of the reasons raised by him is that the verdict issuing court contravened the provisions and rules of the applicable law and contravened what is established in the papers and it was mistaken in applying the presented facts, so, its verdict came based on the violation of law and wrong application thereof in addition to the denial of the appellant's right of grievance and objection to the arbitrary attachment stating that what was mentioned by Chamber in the verdict whereas that challenge by us of the Trade Union's capacity has nothing to do with what is done by Union in defending its members because it is the capacity holder in filing claims because the workers once they joined the union they have implicitly authorized it etc. and thereby it contravened law and what is established in the papers and contravened the provision of article (74) Pleading and it was mistaken in applying Labor Unions Act as a result of its mistaken adaptation and understanding of the facts presented and contravened what is established in the papers as it is established that the claim was filed in the workers names and the primary verdict was issued in their names and not in the Union's name and the lawyer is not retained by the workers by Union as it is





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580

شارع الزبيري – تلفاكس: 270283 – صنعاء – ج.ي

E-mail: m.s.dafallah@gmail.com

established in the committee verdict and it was also mistaken in adapting the authorization (power of attorney) in the litigation and it also decided in its verdict wording the validity of plea presented by lawyer Bazara and it decided the acceptance thereof and the dismissal of the appeal for its being not permissible by law basing thereof upon that the appellees claim is based upon the illegality of their layoff wrongly relying upon the basis stated in article (135) of Labor Law and that is contrary to the provisions of articles (272 & 284) Pleading , as the first one provided for the ways of appeal in verdicts and the second one gave the litigants the right to appeal primary verdicts except for what is excluded in accordance with this law and these are the litigation non-terminating verdicts and others and the labor committee's verdict does not fall within the verdicts indicated by the said article, and, subsequently, Chamber has confiscated the appellant's right to exercise its legal right of appeal and disregarded the principle of litigation at two degrees and it also contravened what is established in the papers by applying the provision of article (135) Labor for the workers claim being based upon demanding to give salaries as it is established in the committee 's verdict which is empty of any decision to reinstate the appellees to their jobs or to cancel or stop the service termination decision but it decided that the employment relationship is still continuing and based upon the aforesaid it is noted that there is lack of the subject matter of the plea and the appealed verdict and the legal basis for what was decided by the court of appeal and by preceding Arbitration Committee and, thereby, the verdict is invalid and entails to be cancelled. Then in the clause (Previously) he narrated the reasons for the appeal against the labor Arbitration Committee 's verdict the summary of which is acceptance of a claim with the proven filing thereof contrary to the legally prescribed procedures , acceptance of a claim filed by a non-capacity holder , judging for a non-capacity holder, deciding the continuation of the employment relationship with the proven expiration thereof, denial of the appellant's rights, omission and non-discussion of the appellant's responses and aspects of defense, contradiction of the verdict facts/merits with each other and with the wording, fabrication of the company's responsibility for workers of expired jobs, and they are the reasons raised by him in his appeal petition and he included them in details without the contested appellate verdict and he concluded at the end of the petition by requesting to accept the appeal in form and subject, to revoke the contested appellate verdict, to revoke the labor Arbitration Committee 's verdict and charge the appellees with the litigation expenses and lawyer's fees.





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580

شارع الزبيرى – تلفاكس: 270283 – صنعاء – ج.ي

E-mail: m.s.dafallah@gmail.com

Response to the appeal:

The appellees presented through the Union lawyer a petition of response contained the contrary to what was stated in the appeal reasons, of which is that the appealing company has contravened all international norms, laws, treaties and agreements exploiting thereby the circumstances of war and it dispensed with its employees and suspended their salaries without a legal justification with the knowledge that it has been and she is still responsible for the oil blocks toward Yemen Government and the employees, that the two verdicts, the subject matter of appeal, came consistent with the valid subjective and procedural law as well as with approval the oil agreements issued under decisions and laws and this what gives them a mandatory force as a legal source for their being considered as special laws in respect of the relationship between the Government of Yemen and the appealing company and also what was judged by the appellate verdict on the dismissal of the challenge of the Union's capacity came with reasons agreeing with the valid law for that law gave Union the right to litigate before courts and that of the Union's goals is to defend the workers rights and acquisitions and the most important of the workers defence is the right of litigation before courts as provided for by article (11) of Trade Unions Law and whereas unions have the right of litigation, they have the right to retain lawyers and a lawyer was retained to plead for the Union and workers and this a clear and express challenge, and as for what was mentioned by the appellant that the verdict was issued in the name of the workers as the pleader, this does not disagree with the valid law because the Union's capacity is established in defending the workers individual and collective interests, and also the court of appeal has agreed with the valid law as the provision of article (284) Pleading is clear in the exclusion of appeal in accordance with Pleading Law or another provision, and of these excluded provisions is what is excluded in article (135/b) Labor Law and which are the suits related to the stoppage of termination decisions, as the subject matter of the claim filed initially before the committee pertains to stopping this termination which was decided by company individually to terminate the workers relationship, and what is important is the purpose and meaning not the words and structures, and this is what was decided by the verdict in respect of paying the salaries and the associated rights and the continuation of the employment relationship, in addition to that the oil blocks workers and employees, including the appellant company's employees are governed by a special law for the agreement concluded between the government of Yemen and the company and under which a republican decree was issued under No. 42 of 1999 approving the agreement between Ministry of





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580 شارع الزبيري – تلفاكس: 270283 – صنعاء – ج.ي
E-mail: m.s.dafallah@gmail.com

Oil and DNO Company of Norway and it was also ratified by the House of Representatives, then he (workers lawyer) said the appellees has followed all the procedures provided for by law and that the appellant insisted on abuse then he recited the actions taken prior the claim filing until he said that the court did fabricated the company's liability as the liability is existent by the violation of the contractual obligations whether between the government and the appellant pursuant to the production sharing agreements or the employees but the court rather agreed with the valid law etc.. and the lawyer requested at the end of his response to dismiss the appeal, to support the primary and appellate verdicts and to award the litigation expenses and fees and he attached a number of copies of documents.

Comment:

The company's lawyer commented on the appellees response with a petition repeating what was contained in the company's appeal petition confirming the company's adherence to the appeal petition and the comment and requested to award to the company all its demands and not to consider the response presented by party with no legal capacity.

Verdict whereases and wording:

As the appeal to Supreme Court has fulfilled its acceptance conditions in form in according with the appeal examination department decision No. 1567 issued in the session of 10/11/1438H.C. corresponding to 07/07/2017 A.D., and it was required to determine the appeal in terms of the subject, and by referring to the papers contained in the case file including the appeal petitions, the responses thereto, the comment on the response, the Arbitration Committee's verdict and the appellate verdict, the subject matter of the appeal, it was found that what is stated by the company through its lawyer in respect of the reasons for its appeal that the contested verdict is based on the violation of law and the wrong application thereof contrary to what is established in the papers by Court of Appeal's acceptance of that the Arbitration Committee's verdict may not be appealed and dismissal of the appeal that the plea presenter has no legal capacity for his being not retained by the workers in whose names the claims was primarily filed and in whose favor the primary verdict was issued and also the company Trade Union has no capacity to retain the lawyer who presented the plea for the verdict being not issued in its name and because it is deemed dissolved by the expiration of the employment relationship between the workers and the company, and the court contravened the law and what is established in the papers by adapting the facts, as it is established that the claim is based on demanding the workers' salaries and the verdict was



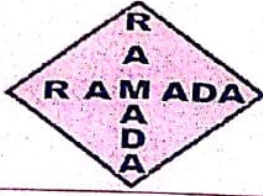


دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

شارع الزبيري - تلفاكس: 270283 - صنعاء - ج.ي
Zubairi Street - Telefax: 270283 - Sana'a - R.O.Y. Mobile: 733526580
E-mail: m.s.dafallah@gmail.com

issued to the effect thereof and there is nothing in the wording thereof in respect of stopping the termination decision etc .But these challenges do not affect the soundness of the appealed verdict and the validity of what is judged thereby for that these challenges do not contain a certain reason for appeal to Supreme Court as provided for in article (292) of Pleading Law, as it is clear to the Circuit by reviewing the papers and carefully looking into them that the reasons for appeal raised by the appellant were previously raised by the appellant in its appellate petition against the Arbitration Committee 's verdict and in its response to the plea presented by Union's lawyer - the appellees - and as it is clear from the papers that Appeal Court has considered the case with valid procedures in accordance with the rules of article (288) Pleading, and realized the pleading facts and responses thereto and discussed all what was raised before it in this regard including the Union's legal capacity in representing the company's workers and defending their rights which were raised by the company's lawyer in his response to plea for the non-appealability of the committee's verdict for the exclusion thereof from the primary verdicts which may be appealed and it responded thereto and clarified the viewpoint thereon, and it was established to it that Union is the capacity holder in filing claims to defend the rights of its members, in retaining lawyers and lodging suits explaining that such capacity of the Union is based on the Labor Unions Regulatory Act No. (35) of 2002 and which defined the tasks and powers/functions of unions and among its functions is defending its members and it is a special law and pleading law is a general law and the special law prevails over the general law up to the last point recited by the chamber in the whereases of its verdict to respond to the objections raised by the company's lawyer in confronting the Union lawyer's plea for the non-appealability of the Arbitration Committee verdict in accordance with article (135) clause b of Labor Law and they are undoubtedly valid reasons having support from law and are sufficient to respond to what was raised by the appellant in the reasons for appeal against the contested appellate verdict, and this what entails to dismiss the appeal to Supreme Court as to the subject and to ratify the appellate verdict, the subject matter of the appeal, and for what was raised by the appellant in its appeal petition as to the reasons regarding the Arbitration Committee primary verdict, law has set forth the general rules and procedures which should be followed by the appellant in presenting its appeal in articles (275, 276, 279, 280, 281) of Pleading Law. As well as the procedures for appeal to Supreme Court as set forth in article (289) of the same law, and whereas the appellant, in its appeal to the primary verdict, did not follow the legal ways as an appeal independent of the verdict, the circuit can not consider





دار الرمادة للترجمة RAMADA TRANSLATION BUREAU

Zubairi Street – Telefax: 270283 – Sana'a – R.O.Y. Mobile: 733526580 شارع الزبيري – تلفاكس: 270283 – صنعاء – ج.ي
E-mail: m.s.dafallah@gmail.com

the appeal in terms of the subject matter for its being non connected therewith according to the legal procedures.

Therefore, and after consideration and deliberation, and pursuant to the provisions of articles (291, 299, 300) of Pleading Law

Circuit renders its following verdict:

- 1- Dismissal of the appeal to Supreme Court for the non-realization of the reasons thereof as explained by us.
- 2- Ratification of the appealed appellate verdict No. (98) of 1438H.C. for its agreement to law.
- 3- Confiscation of the appeal bond in favor of the public treasury and no judgment in respect of expenses.

Thereby we judged and affirmed so.

Issued under our signature and Supreme Court's seal.

Judge/ Abdullah Bin Ahmed Al-Hamzi

President

(signed & stamp affixed)

Judge/
Ali Mosleh Awadh
Member
(signed)

Judge/
Mohd. AlAzzani
Member
(signed)

Judge/
Mohammed H. Al-Shami
Member
(signed)

Judge/
Hasan Zaid Al-Mesbahi
Member
(signed)

Ezz Addin Abdulwahab Al-Mortadha
Secretary
(signed)

(Duly signed and stamped as a true copy)

