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JUDGMENT SHEET
LAHORE HIGH COURT,
Multan Bench, Multan
JUDICIAL DEPARTMENT

W.P. No. 1050 of 2022.

Raheem Ahmad.

VERSUS

The Federation of Pakistan, etc.

JUDGMENT

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| Date of Hearing | 26.11.2024 |
| Petitioner by: | Mr. Qamar uz Zaman Butt, Advocate. |
| Respondent No. 1 by: | Malik Aamir Javed Bhutta, Assistant Attorney General. |
| Respondents No. 2 to 5 by: | Sardar Riaz Karim, Advocate with Ch. Hafeez Ullah Gujjar, Legal Officer, NBP, Multan. |

ABID HUSSAIN CHATTHA, J. This constitutional Petition is directed against the impugned Orders dated 17.02.2021, 24.06.2021 & 29.12.2021 passed by Functionaries of the National Bank of Pakistan (the “**NBP**”).

2. Precisely, the Petitioner was employed as OG-III / Cash Officer on contract basis on 12.08.2016 for a period of three years. The contract was renewed from time to time. Vide impugned Order dated 17.02.2021, the Petitioner was dismissed from service with immediate effect. The Petitioner filed W.P. No. 3669 of 2021 challenging the dismissal Order which was disposed of vide Order dated 10.03.2021 by transmitting the Petition to the concerned Respondent of the NBP to decide the same in accordance with law. Acting upon the same, the impugned Order dated 24.06.2021 was passed, whereby, representation of the Petitioner was dismissed by holding that the Cash Internee Certificate purportedly issued by Zarai Tarraqiati Bank Limited (the “**ZTBL**”) submitted by the Petitioner at the time of his appointment was not verified by the ZTBL, hence, the Petitioner was dismissed on account of submitting fake antecedent pursuant to clause 5.6 of his appointment letter. Aggrieved from the same, the Petitioner filed W.P. No. 14150 of 2021 which was disposed of vide Order dated 25.10.2021 directing the concerned

Respondent of the NBP to decide pending appeal of the Petitioner, which was later dismissed vide impugned Order dated 29.12.2021 on the same ground that the Petitioner failed to provide any record verified by the Head Office of ZTBL regarding genuineness of his Cash Internee Certificate dated 29.06.2016 purportedly issued by the Branch Manager of ZTBL, Mian Channu Branch. Hence, this Petition.

3. At the very outset, learned counsel for the Respondent Bank objected to the maintainability of this Petition while submitting that the Petitioner was appointed on 12.08.2016 on contract basis and was dismissed on 17.02.2021 as contractual employee, therefore, he cannot invoke the constitutional jurisdiction of this Court and the only remedy available to him is to file a civil suit questioning his alleged unlawful termination. He further stated that since currently the National Bank of Pakistan (Staff) Service Rules, 2021 (the “**Rules, 2021**”) are in force which have been held as non-statutory in case titled, “*Umar Asghar Qureshi and another v. Federation of Pakistan and 3 others*” (2024 PLC (C.S.) 640), therefore, this Petition is not maintainable. He also asserted that even otherwise, this Petition involves determination of disputed facts which cannot be resolved in exercise of constitutional jurisdiction of this Court. He relied upon cases “*Owais Shams Durrani and others v. Vice Chancellor, Bacha Khan University, Charsadda and another*” (2020 SCMR 1041), “*Federation of Pakistan, Chamber of Commerce and Industry, Karachi v. Ali Ahmed Qureshi*” (2001 SCMR 1733) and “*Dr. Ishaque Muhammad Shah v. President, National Bank of Pakistan and 2 others*” (2010 PLC (C.S.) 748).

4. Conversely, learned counsel for the Petitioner submitted that the Rules, 2021 came into effect on 01.04.2021 as held in the case of Umar Asghar Qureshi (supra), whereas, the Petitioner was dismissed on 17.02.2021 when the statutory National Bank of Pakistan (Staff) Services Rule, 1973 (the “**Rules, 1973**”) were in force. As such, the Petitioner even as a contractual employee can invoke the constitutional jurisdiction of this Court. He stated that even otherwise, no disputed fact is involved and according to record, it is an admitted fact that the Petitioner has been arbitrarily dismissed in terms of clause 5.6 of his appointment letter without issuance of any show cause notice, framing of charge sheet and confronting with him the allegation of presenting

fake Internship Certificate at the time of securing his job. Moreover, the effect of clause 5.7 of his appointment letter has been completely ignored which stipulates the time period for verification of antecedents.

5. Arguments heard. Record perused.

6. It is an admitted fact that the Petitioner was employed on contract basis on 12.08.2016 for a period of three years and his contract was extended from time to time until he was abruptly and arbitrarily dismissed vide letter dated 17.02.2021. On the date of his dismissal from service, the non-statutory Rules, 2021 were not in force, rather the statutory Rules, 1973 were applicable. For reference, see Umar Asghar Qureshi case (supra); “Muhammad Tariq Badr and another v. National Bank of Pakistan and others” (2013 SCMR 314); and “Muhammad Tariq Khan v. National Bank of Pakistan through President/CEO, etc.” (PLJ 2024 Lahore 376). As such, this Petition was maintainable.

7. It is apparent from the record that the Petitioner was not issued any show cause notice, charge sheet or confronted with the charge that he presented a fake Internship Certificate at the time of his appointment in 2016. In fact, the allegation was revealed when in compliance of Order dated 10.03.2021 passed in W.P. No. 3669 of 2021, the impugned Order dated 24.06.2021 was passed and later, the same allegation was confirmed through the impugned Order dated 29.12.2021.

8. It is the case of the Respondent Bank that it could legitimately and lawfully terminate service of the Petitioner by invoking clause 5.6 of his appointment letter which entitled the Respondent Bank to terminate service of the Petitioner upon discovery of any false information provided at the time of appointment. However, the effect of clause 5.7 of the appointment letter was conveniently ignored. The controversy can be resolved by conjunctively reading clauses 5.6 & 5.7 of the appointment letter which are reproduced as under:-

5.6 In case it is discovered at any time that you willfully suppressed any material information about yourself viz. education qualifications, age, post-employment details such as pay, job title, service record etc. or if it is discovered that disclosures made by you at the time of selection or thereafter are false in any respect, you will be liable to immediate dismissal from the Bank's service. In that event the Bank will be in its right to demand damages if any sustained by the Bank.

*5.7 Time period for verification of antecedents & education testimonials approved by the Board is **three** months form the date of joining the Bank's service. No fresh advance/staff finance and other benefits will be allowed / sanctioned till verification of antecedents.*

9. It is explicitly evident from the above that the Petitioner rendered service from the date of his appointment on 12.08.2016 till the date of his termination on 17.02.2021 i.e. for more than four years without any allegation when statedly clause 5.6 was arbitrarily and unilaterally invoked without reference to the Petitioner completely ignoring that antecedents in terms of clause 5.7 of the letter of appointment could only be verified within three months from the date of his joining the service with the NBP. Admittedly, the Respondent Bank did not invoke the termination simpliciter clause 5.3 of the appointment letter which allowed termination by either side on three months' notice or pay in lieu thereof, rather, the NBP terminated the service of the Petitioner on allegation of misconduct in violation of clause 5.2 (a) of the appointment letter, which mandated issuance of show cause notice and holding of inquiry which admittedly was not undertaken in the case of the Petitioner. Thus, the service of the Petitioner was dispensed with by attaching a stigma for which he was not accorded with a fair opportunity to defend himself, particularly, when the Cash Internee Certificate was issued by the Branch Manager of ZTBL at Mian Channun but the NBP sought its verification from the head Office of ZTBL. As such, the dismissal Order of the Petitioner was based on *mala fide* in violation of his appointment letter.

10. In view of above, this constitutional Petition is **allowed**; the impugned Orders dated 17.02.2021, 24.06.2021 & 29.12.2021 are set aside being illegal and unlawful; and the Petitioner is reinstated into service with all permissible back benefits. No Order as to costs.

(Abid Hussain Chattha)
Judge

Approved for reporting.

Judge