

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

C.R. No.220 of 2013
Zarai Taraqati Bank
Versus
Muhammad Tariq

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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16.03.2020	Mr. M.D. Shahzad and Ch. Talib Hussain, Advocates for the petitioner. Mr. Farooq Badshah, AVP (DPD), Z.T.B.L. Mr. Muhammad Younas, OG-I, Z.T.B.L. Respondent in person along with his counsel Ch. Nasrullah Khan, Advocate.
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Through the instant civil revision petition, the petitioner, Zarai Taraqati Bank, impugns the judgment dated 19.03.2013 passed by the Court of the learned District Judge, Islamabad, whereby the petitioner's appeal against the order dated 09.06.2012 passed by the Court of the learned Civil Judge, Islamabad, was dismissed. Vide the said order dated 09.06.2012, the learned Civil Court allowed the respondent's application under Order VII, Rule 11 C.P.C. and rejected the plaint in the petitioner's suit for recovery of Rs.18,65,176/.

2. Learned counsel for the petitioner submitted that the learned Courts below concurrently erred by non-suiting the petitioner; that the learned Courts below erred by not appreciating that the suit filed by the petitioner against the respondent should have been decided on merits; that the serious irregularities committed by the respondent had caused a huge loss to the petitioner; that the respondent was under an obligation to make good the said loss; that on 12.03.2010, the petitioner was given a notice to show cause as to why the loss caused by him should not be recovered from his salary in accordance with the rules; and that since the

respondent did not pay Rs.18,65,176/- to the petitioner, the latter had a good cause to file a suit for recovery against the respondent. Learned counsel for the petitioner prayed for the revision petition to be allowed and for the concurrent orders/judgments passed by the learned Courts below to be set-aside.

3. On the other hand, learned counsel for the respondent submitted that no jurisdictional irregularity had been committed by the learned Courts below by rejecting the plaint in the petitioner's suit; that although the respondent had been served with the show cause notice dated 12.03.2010 but he had retired from service on 14.09.2010; that even though an audit objection had been raised in 2006, the show cause notice was not issued until four years after such an objection; that before the respondent was relieved from his services, he proceeded on L.P.R. from 19.03.2010 to 14.09.2010; that the respondent was paid all his retirement benefits without any deduction; and that the impugned orders/judgments do not suffer from any legal infirmity. Learned counsel for the respondent prayed for the revision petition to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. The respondent had served the petitioner as Senior Vice President. On 14.09.2010, the respondent retired from service. On 19.03.2010, the respondent had proceeded on L.P.R.

6. The respondent was alleged to have committed serious irregularities causing a loss of Rs.18,65,176/- to the petitioner. Apparently, such a loss found mention in the petitioner's audit reports for the years 2006, 2007 and 2008. It was

not until 12.03.2010 that a notice was issued to the respondent calling upon him to show cause as to why the said amount should not be recovered from his salary. Despite the issuance of the said show cause notice, the respondent was paid all his retirement benefits without any deduction.

7. The question that needs to be determined is whether the petitioner could have instituted a suit for recovery against the respondent after having failed to recover or deduct any amount from the respondent prior to or upon his retirement. The petitioner had permitted the respondent to proceed on retirement without effecting any recovery from him despite the fact that Regulation 9(1) of the A.D.B. Employees Pension and Gratuity Regulations, 1981 provides that an employee against whom disciplinary proceedings were pending or are in progress, shall not be allowed to proceed on retirement until such proceedings are completed. The petitioner instead of completing the proceedings against the respondent initiated through the said show cause notice, allowed him to proceed on retirement with all his retirement benefits. The petitioner having done so cannot fault the concurrent orders/judgments of the learned Courts below to reject the plaint under Order VII, Rule 11 C.P.C.

8. In view of the above, the instant revision petition is dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE