

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE MAQBOOL BAQAR

CIVIL APPEAL NOS.1255 AND 1256 OF 2012

*(Against judgment dated 11.9.2012 of the
Lahore High Court, Multan Bench passed in
ICA Nos.104 and 105 of 2011)*

Zarai Traqiati Bank Ltd.

... Appellant
(In both cases)

Versus

Muhammad Asim Rafique and others
Muhammad Farooq & others

(In CA 1255/12)
(In CA 1256/12)
... Respondents

For the Appellant: MianMuhammad Hanif, ASC.
Mr. Mehr Khan Malik, AOR.

For the respondents: Mr. Muhammad Suleman Bhatti, ASC.

Date of hearing 16.2.2016

ORDER

MAQBOOL BAQAR, J.-In response to an advertisement

placed by the appellant-bank in the daily "Dawn" for the post of "Management Trainee Officer". The respondents applied, they passed the written test and were selected in their interview, however, instead of issuing appointment letters, the appellant bank offered them a contract for on the job training as "Management Trainee" for a period of two years on payment of Rs.16,000/- per month and instead of the word 'salary' the word 'stipend' was used for such payment. Clause vii of the contract provided that the said contract will not constitute employee/employer relationship between the trainee and the appellant-bank, whereas clause ix provided for extension of the training beyond the original period of two years and clause xi stipulated that the training does not offer any guarantee of regular

employment in the appellant-bank. The contract, however, through clause iv provided 30 working days annual leave. The respondents, in pursuance of the above were inducted in the appellant-bank. They were posted in different branches of the bank as Grade-II Officers and as Managers also. They were assigned the functions such as authorized to sanction loan, negotiate financial facility with the customers, evaluate the securities and to recovery the finance granted to the customers and thus were functioning as/and discharging their duties with power and authority as could be of any other officer/employee of the equivalent position in the bank. Upon expiry of the above contract, after the prescribed period of two years, the contract on 26.5.2010 was extended for a period of about seven months up to 31.12.2016. However, neither was the employment of the respondents regularized nor were their contracts extended thereafter and the bank instead advertised vacancies for appointment in place of the respondents.

2. We have noted that not only the applications that were invited by the appellant-bank and made by the respondents were, "to fill the positions of MTOs for operations of the Bank in Finance and Accounts". To catch the attention of the prospective candidates to the advertisement, in fact "Career for Management Trainee Officers" was printed on the top of the advertisement in bold letters and offer/advertisement also promised "payment of competitive remuneration". From the official summaries placed by the appellant-bank through CMA No.989 of 2015, also clearly show that the applications were in fact invited for the "posts of Management Trainee" and that in response to the advertisement, the appellant-bank received 8392 applications which were short listed to 1942. The candidates were further short listed for written test and thus 231

candidates were put to such test. Though the candidate securing 45% and above marks in the test were to be considered eligible for interview, however, keeping in view the vacancy position only 30 candidates were called for interview conducted by the Designated Committee and on the recommendations at of the Committee, the competent authority decided that the respondents may be considered for selection in the Head Office and the fields and after that they may be preferred for posting in concerned zone with high merit. The summary/office note further reveals that the above trainees were to be accepted for on job training initially for a period of two years and were to be considered for regular appointment on expiry of contract period upon satisfactory performance and availability of vacancies and further that in case any management trainee fails to join, the next candidate with high merit may be offered the position for posting. The respondents were also required to furnish medical fitness certificate issued by the authorized medical practitioners.

(The Federal Government imposed ban)

Judge

Judge

Islamabad the,
14th June 2013

(*Aamir Sh.*)

'NOT APPROVED FOR REPORTING'