JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.4032 of 2019
Muhammad Iqbal
Versus
Federation of Pakistan through Secretary Finance Division and another

Dates of Hearing:	26.04.2022 and 21.09.2023.
Petitioner by:	Mr. Furqan Rasool Bhatti, Advocate along with petitioner in-person.
Respondents by:	Syed Ahsan Raza Kazmi, learned Deputy Attorney General. Ms. Asia Batool, learned Assistant Attorney General. Ms. Shabih Zehra, Advocate along with Muhammad Yunus, AVP, ZTBL.

MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition the petitioner, Muhammad Iqbal, impugns the office memorandum dated 05.07.2019 passed by the appellate authority in Zarai Taraqiati Bank Limited (**"ZTBL"**), whereby his appeal against the imposition of major penalty of compulsory retirement from service, was dismissed.

2. The sole ground agitated by the learned counsel for the petitioner was that since the petitioner was entitled to the protection envisaged by Section 6 of the Agricultural Development Bank of Pakistan (Re-organization and Conversion) Ordinance, 2002 (**"the 2002 Ordinance"**), his departmental appeal could only have been heard by the Board of Directors of ZTBL in terms of Regulation 11 of the ADBP Officers and ADBP Clerical and Non-Clerical Staff Service (E&D) Regulations, 1975 (**"the 1975 E&D Regulations"**) and not by the President of ZTBL. He submitted that since the petitioner's appeal was decided by the President of ZTBL under the ZTBL Staff Regulations, 2005 (**"the 2005 Regulations"**), which are not applicable to the petitioner, the appellate order dated 05.07.2019 is liable to be set-aside and the matter be remanded to the Board of Directors of ZTBL with the direction to decide his appeal in accordance with the law.

3. On the other hand, learned counsel for ZTBL submitted that although the petitioner was in service of ZTBL when the 2002

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Ordinance was promulgated, he had thereafter executed an undertaking on 11.12.2014 seeking for his terms and conditions of service to be governed by the 2005 Regulations; and that the petitioner has not pointed out any illegality or procedural impropriety in the process culminating in the imposition of major penalty of compulsory retirement on him. Learned counsel for ZTBL prayed for the writ 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. Agricultural Development Bank of Pakistan was converted into a company limited by shares after the promulgation of the 2002 Ordinance. The Agricultural Development Bank of Pakistan was subsequently renamed as Zarai Taraqiati Bank Limited. Section 6 of the 2002 Ordinance gives protection to the officers and staff of respondent No.2 / Bank, employed prior to its conversion into a company, against any change in the terms and conditions of their service. For the purposes of clarity, the said Section 6 is reproduced herein below:-

> *"6. Continuation in service of the company.--- (1) The employees of ADBP who were in the service of ADBP before the effective date shall stand transferred to and become the employees of the Company as of the effective date on the same terms and conditions and shall be subject to the same rules and regulations as were applicable to them before the effective date.*
>
> *(2) Notwithstanding anything contained in law, contract, agreement or the conditions of service no person transferred to the Company in pursuant to subsection (1) shall be entitled to any compensation by reason of such transfer."*

6. In exercise of the powers conferred by Section 39(1) of the Agricultural Development Bank Ordinance, 1961, the Board of Directors of respondent No.2 / Bank had made the 1975 E&D Regulations. These Regulations had been made with the approval of the Federal Government. The 1975 E&D Regulations set out the procedure for conducting an inquiry.

7. After the conversion of the Agricultural Development Bank of Pakistan into a public limited company by the name of "Zarai Taraqiati Bank Limited" pursuant to the provisions of the 2002

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Ordinance, the provisions of the 1975 E&D Regulations continued to be applicable to the employees / officers of respondent No.2 / Bank, who were employed prior to the promulgation of the said Ordinance. This protection was afforded to such employees / officers by Section 6 of the 2002 Ordinance.

8. In the ordinary course, it would have been the obligation of ZTBL to have carried out the disciplinary proceedings against the petitioner in accordance with the 1975 E&D Regulations and for the appeal against the penalty imposed on him to have been decided by the appellate authority designated in the said Regulations. However, it is not disputed that the petitioner had, on 10.05.2006, submitted an option form for moving over to Contributory Provident Fund and Gratuity Scheme under the 2005 Regulations. Subsequently, on 28.12.2016, the petitioner had sworn an undertaking to the effect that he had understood the impact of the judgments of the Hon'ble Supreme Court, and that he be placed under the 2005 Regulations *"for all intents and purposes effective from the date of [his] first option in the year 2006 and [he] may be allowed to be governed by SR-2005 in toto."*

9. The charge sheet dated 14.06.2016, show cause notice dated 23.08.2016, office memorandum dated 12.04.2017 and appellate order dated 05.07.2019 all show that the disciplinary proceedings against the petitioner were conducted in accordance with the 2005 Regulations. On 03.02.2017, the petitioner appeared before the authorized officer for personal hearing and made a statement to the effect that regarding the charge sheet dated 14.06.2016 and show cause notice dated 23.08.2016, he had nothing more to say. In this view of the matter and given the fact that the petitioner had voluntarily and on his own volition requested the management of ZTBL for his service to be governed by the 2005 Regulations, he could not, after the appeal against the imposition of major penalty on him was dismissed, take the plea that the proceedings should have been conducted in accordance with the 1975 E&D Regulations.

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10. In view of the above, I do not find any merit in this petition, which is accordingly dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON 27.09.2023.

(JUDGE)

Ahtesham*

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