

Order sheet
IN THE HIGH COURT OF SINDH, KARACHI

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Hassan (Akbar)

CP No.D-3040 of 2017
(MCB Bank Limited vs. Fed: of Pakistan & others)

- Priority**
1. For order on office objection
 2. For hg. of CMA No.15328/2017
 3. For hg. of main case

22.09.2025

Mr. Arbaz Ahmed, advocate for petitioner
 Mr. Khaleeq Ahmed, DAG

ORDER

Muhammad Iqbal Kalhoro, J: Respondent No.4 (Muhammad Saleh) holding an account with petitioner Bank in a branch situated in Ward No.3, Bhiria Road, Tehsil & District Bhiria, Naushero Feroze filed a complaint with respondent No.3 (Banking Mohtashib Pakistan) under Section 82-D of the Banking Companies Ordinance, 1962 read with Section 9 of the Federal Ombudsman Institutional Reforms Act, 2013. He alleged that he deposited cash amount of Rs.474,000/- in the said bank against which he had valid receipts but the amounts were found not credited into his bank account, on checking. He made several complaints to the bank but to no avail, hence, he filed the complaint before the respondent No.3. The bank on notice submitted its objections mainly relying upon a report prepared by its Fraud & Risk Management Unit (**FRMU**). The main features of which have been reproduced in the impugned order passed by respondent No.3 as under:-

- “- Misappropriated funds received from customers in shape of cash deposits and issued deposit slips with single signature by affixing transfer/crossing stamps there against without affording credit to the respective customers' accounts as requested by the customers.
- Proceeds of the cheque deposited by the customers were unauthorizedly credited in an account other than the depositor (payees)'s accounts.
- Misappropriated funds of customers by debiting accounts through initiating flying entries and afforded credit to another account; most probably, either to compensate the latter customer against already misappropriated funds or to hide factual position from the customer.”

2. The bank further stated in its reply that complainant's receipts bear “transfer stamp” whereas his claim was that he had made cash deposits in his account. The deposit slips carry a single signature of Mr. Abdul Qadir

Soomro, Branch Manager instead of jointly with Transaction Service Officer (TSO). It further iterated that complainant was provided several opportunities to submit cheque book counterfoil for scrutinizing the claim but he failed to do so, hence, the bank could not validate his claim.

3. The complaint was taken up for hearing by respondent No.3 on 26.10.2016 at Karachi. The arguments of both the parties were noted down and on the basis of evidence available, respondent No.3 held that the bank had failed to offer any plausible justification for not honouring claim of Rs.474,000/- for which the complainant had valid deposit slips duly stamped by the Bank Branch Manager, who per bank's own report, was found involved in fraudulent activities. Respondent No.3 has further noted in the order that although the complainant had deposited the cash amount in his account but the then Bank Manager, who was involved in the scam, had stamped the slip as "*Transfer Stamp*" and perpetuated fraud thus. This practice of the then branch Manager was also noted in the report itself prepared by the FRMU and recognized as his *modus operandi* to defraud with the banks' customers. On the basis of such evidence, respondent No.3 passed the impugned order that the bank/petitioner shall credit in respondent No.4's account a sum of Rs.474,000/-.

4. This order was challenged by the petitioner before President of Pakistan in the form of a representation. This representation has been dismissed through the impugned order dated 15.03.2017. Before the President of Pakistan, the same pleas were taken up by the petitioner that the complainant/respondent No.4 had failed to produce cheque book counterfoil to substantiate his claim.

5. Before us also, learned counsel for the petitioner has reiterated the same facts in his arguments.

6. We are, however, not persuaded by his arguments for the reasons that the same have been rejected by the two forums and the case in favour of respondent No.4 has been decided on the basis of evidence. It has been held that the amount claimed was deposited by complainant in the bank of which he has valid receipts. The demand of the bank that the complainant should produce cheque book counterfoil to substantiate his claim is nothing but an attempt to obfuscate the issue. Because the complainant claims that he had deposited the cash amount in the bank and was given a slip upon which the Manager of the Bank, who was found

involved in fraudulent activities, had affixed a different stamp as “*Transfer Stamp*” instead of actual stamp.

7. Because of such nature of facts, it is not possible for the complainant to produce evidence in the shape of cheque book counterfoil to satisfy the bank that the money was deposited by him. Such evidence is quite contrary to the claim made by the complainant that he had deposited the amount in cash and not through transfer from another bank, etc. through cheque book.

8. Notwithstanding, the bank has admitted the fact that Manager of the said branch was involved in fraud and against him a report by the FRMU was prepared in proof of the same. When the bank admits wrongdoings by its Manager of the same branch, the heavy burden lies upon it to show that the claim of respondent No.4 is based on false evidence. In absence of any evidence establishing the case of the bank, the concurrent findings recorded against it by the two forums below cannot be disturbed. We therefore find no merits in this petition and accordingly dismiss it along with pending application(s).

This petition is disposed of in above terms along with pending applications.

JUDGE

JUDGE