

Order Sheet
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
C.P.No.D-520 of 2025
(M.C.B v. Federation of Pakistan & Ors)

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
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Before:

Mr. Justice Riazat Ali Sahar.
Mr. Justice Ali Haider 'Ada'.

Petitioner: M.C.B. Limited, C.M.C Branch, Larkana through Attorney Ahmed Adil son of Asadullab Abro, Branch Manager Through Mr. Bashir Ahmed Larik, Advocate.

Respondents: Through Mr. Oshaq Ali Sangi, Assistant Attorney General for Pakistan.

Respondent No.4, Shujaat Ali son of Gulab Ali Khichi, present in person.

Date of hearing: 09.06.2026

Date of Reasons: 11.06.2026

ORDER

RIAZAT ALI SAHAR, J.:- Through captioned petition, the Petitioner has assailed the Order dated 08.07.2024, passed by Banking Mohtasib Pakistan (Respondent No.2) and subsequent order dated 14.04.2025, passed by the President's Secretariat (Public), Aiwan-e-Sadar, Islamabad (Respondent No.3) while entertaining the representation presented by the petitioner (M.C.B.Limited).

2. The case of the petitioner is that Respondent No.4 filed a Complaint before the Banking Mohtasib Pakistan. As per memo of petition, the facts are reproduced as under:

“Brief facts of the complaint as per allegations that the complainant filed a complaint with Banking Mohtasib Pakistan Respondent No.2, alleging that he maintains PLS Account No.334 at the MCB Branch Anaj Mandi Branch Larkana. In January 1998, he obtained a loan of Rs.20,000/- from the said branch against Term Deposit Receipt (TDR) No.36/33/115499 for Rs. 100,000/- as security. The complainant alleged that MCB staff contacted him for loan renewal of Rs.20,000/-, On 11-02-1998 he had submitted a cheque of Rs.2500/- at cash counter for cash, the same cheque was dishonored and the Bank's staff asked the complainant to clear the loan amount of Rs.20000/- the complainant requested the branch manager that a TDR of Rs. 100,000/- has been mortgaged with the Bank and outstanding loan would be cleared shortly but the concerned Branch Manager

encashed the complainant's TDR without obtaining prior approval/consent and used the funds to settle the outstanding loan amount the Bank had debited Rs.21,633/- from the complainant's account claiming that a sum of Rs.48,433/- was paid in excess interest on the said PLS TDR. The complainant has claimed this has caused him mental torture in response to this illegal action by MCB the complainant filed a complaint with the Honourable Wafaqi Mohtasib Respondent No.2 passed Order dated 23-11-1990, in favour of the complainant. However MCB did not implement the findings of the Honourable Wafaqi Mohtasib Respondent No.2 The complainant repeatedly requested the respondent/MCB for redressal of his grievance but to no avail. He has therefore approached BMP secretariat Respondent No.2 for redressal of his grievance and refund of money.”

3. Learned counsel for the petitioner submits that after expiry of father of Respondent No.4, he again approached Banking Mohtasib Pakistan for implementation of order dated 23.11.1990; subsequently, he sought order dated 09.10.2024. Respondent No.4 filed Representation before President's Secretariat (Public), Islamabad and such order dated 14.04.2025; hence the petitioner (M.C.B) filed instant petition. He submits that father of Respondent No.4 obtained loan of Rs.20,000/-, which was subsequently renewed / rescheduled by the Manager through encashment TDR and such exercise was done between 1985 to 1998. Father of Respondent No.4 approached Banking Mohtasib Pakistan in 1990 and that order was not assailed by any one. He prayed for adjustment of subject loan and recalling the order of Banking Mohtasib Pakistan and the President's Secretariat (Public).

4. Conversely, learned Assistant Attorney General for Pakistan submits that the contents of memo of petition are ambiguous; secondly as per facts mentioned in the memo of petition, the initial order passed by Banking Mohtasib Pakistan on 23.04.1990 has not been produced; thirdly the petitioner did not implead Gulab Ali Khichi through his legal heir, who was the actual account holder and borrower of the bank and filed complaint in the year 1990 before Banking Mohtasib Pakistan; fourth, the petitioner failed to approach the appropriate forum with regard to loan transaction of bank and this is not an appropriate forum to be approached. He further contended that actually, the loan amounting to Rs.20,000/- was borrowed and renewed / rescheduled within 1985 to 1998, therefore, the instant petition being ambiguous one is filed without proper jurisdiction is liable to be dismissed.

5. Heard arguments of the learned counsel for the parties and perused the material available on record.

6. We have perused the order dated 06.07.2024, passed by Banking Mohtasib Pakistan, wherein the stance of the petitioner (MCB) is hereby reproduced as under for ready reference:

“MCB’s stance:

- a. As per the MCB record, Complainant Mr. Gulab Ali Khichi deposited Rs.10,000/- in a PLS-TDR Rs.100,000/- on July 11, 1984 having maturity date of February 11, 1998. Later, the customer obtained a loan of Rs.20,000/- from MCB pledging the TDR as security on September 15, 1984. MCB has added that the customer failed to repay the loan, therefore, the TDR was encashed on February 28, 1988 for the adjustment of the recoverable dues against the loan
- b. The said TDR was encashed before the maturity and profit from June 11, 1984 till February 28, 1988 amounting to Rs. 48,433/- was paid to the customer. Since due to early encashment profit against the TDR was to be paid at saving, therefore excess profit amounting to Rs.21,633/- was debited from customer's account subsequently.
- c. In this regard, customer approached the Wafaqi Mohtasib (Ombudsman)'s Secretariat for the redressal of his concerns and Wafaqi Mohtasib via their letter #11/2045/8904423/938-C dated 04-05-2012 instructed MCB to refund the excess profit deducted from the customer's account.
- d. As per available information, the customer has already been compensated in compliance to the order passed by the Hon'ble Wafaqi Mohtasib (Ombudsman)'s Secretariat. But the evidences were not held with MCB as the matter is almost twenty-two (22) years old and the concerned Branch was burnt on December 27, 2007 nots following the assassination of Mohtarma Benazir Bhutto, therefore, subject matter is past and closed transaction.
- e. It is pertinent to mention that MCB has also received a letter from Senior Advisor (IMP) Wafaqi Mohtasib (Ombudsman)'s Secretariat bearing case # 11/2045/89 dated 14th June, 2017 for implementation proceedings. The hearing was scheduled on June 21, 2017 and the same was attended by MCB's designated staff. During the course of hearing, MCB was instructed to submit its stance in writing to the Wafaqi Mohtasib (Ombudsman)'s Secretariat and to the customer regarding compliance of order and non-availability of record. Therefore, communication was made with the Wafaqi Mohtasib and the customer as per instructions.
- f. The claimed amount was already disbursed by MCB. However, it is pertinent to notify that the customer has still not shared the "cheque return memo" against the cheque #08319956 valued PKR 21,633/- , hence it would be difficult to ascertain the genuineness of the original cheque and the actual fate due to very old inventory and record.
- g. A meeting has been conducted by Regional Office with the customer's representative on February 21, 2024. During this

meeting, the customer's representative was advised to produce the original order passed by Wafaqi Mohtasib. However, the same was not available neither with the customer's representative nor the Bank. The customer's representative has been advised to gather all original documents i.e. Original Order, Original Instrument (TDR) etc.

- h. It is pertinent to mention that, as per the practice, the Banks usually issues Banker's Cheque/Pay Order for the payment in compliance of such orders however, the cheque presented by the customer is not issued by the Bank instead it is a leaf of customer's cheque book. However, the case will be further probed upon receipt of required documents from the customer's representative.

7. After hearing, the Respondent No.2, Banking Mohtasib Pakistan, rejected the complaint of Gulab Ali Khichi, who has not been made as party in the instant petition through his legal heirs. The observation of Respondent No.2 is as under:

“Observations:

7. It has been observed from the facts provided by the MCB and discussed in the hearing proceedings that the deceased Complainant had already approached the Wafaqi Mohtasib (Ombudsman)'s Secretariat for the redressal of his concerns and subsequently Wafaqi Mohtasib via their letter # 11/2045/8904423/938-C dated 04-05-2012 instructed MCB to refund the excess profit deducted from the customer's account.
8. A meeting was conducted by MCB's Regional Office with the deceased Complainant's representative on February 21, 2024. In this meeting Complainant's representative was advised to produce the original order passed by Wafaqi Mohtasib However, the same was not produced neither by the Complainant's representative nor by MCB. The Complainant's representatives were advised to gather all original documents i.e. Original Order, Original Instrument (TDR) etc. but the same were not provided.
9. Since the subject matter of the Complaint has already been decided by the Wafaq Mohtasib (Ombudsman)'s Secretariat, therefore, under section 82B (5)(c) read with 82D(4) of the Banking Companies Ordinance 1962, the Banking Mohtasib Pakistan is precluded to entertain any complaint the subject matter of which has been decided by court of law or is pending in any court of law or other legal forum. Hence, this Complain sousing the jurisdiction of this forum.

Findings

10. In view of above factual position and in terms of observation at Para No. 7, 8 and 9 above, I, in exercise of power vide section 82B of the BCO, 1962, read with section of the Federal Ombudsmen Institutional Reforms Act 2013 reject the Complaint being ne maintainable due to the jurisdiction of this Office.”

8. It has been noticed that the matter is old one, pertains to banking transaction of loan and its renewal, which was made in the year 1985 to 1998 and such complaint was entertained by the above said both forums. Therefore, being factual controversy, this Court is not inclined to interfere in the factual monetary controversy regarding banking transaction, which has been decided by the President's Secretariat (Public) on the Representation initially made by the father of Respondent No.4.

9. Consequently, instant petition is dismissed and these are the reasons of our short order dated 09.06.2026.

Judge

Judge

Manzoor