



2024:DHC:6870



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 05.09.2024*+ **RFA 49/2020****PUNJAB & SIND BANK**

.....Appellant

Through: Mr. Sarvajeet Kumar, Adv.

versus

**D K GUPTA**

.....Respondent

Through: Mr. Sanjay Bansal, Adv.

**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Appeal has been filed impugning the Judgment and Decree dated 22.10.2019 passed by the learned Additional District Judge-10 (Central), Delhi [hereinafter referred to as the "Impugned Judgment"]. By the Impugned Judgment the suit for recovery in the sum of Rs.3,66,836/- has been dismissed by the learned Trial Court in view of the fact that the suit is barred by limitation.

2. Notice in this Appeal was issued on 27.01.2020. In the interregnum period, the Respondent expired and this Court by its order dated 22.07.2024 impleaded the legal representatives of the Respondent to contest the present proceedings.

3. Learned Counsel for the Appellant has relied upon two documents. In the first instance, he relies upon the Circular No. IRDA/Cir/004/2003 of the Insurance Regulatory and Development Authority of India (IRDAI) dated 14.02.2003 to submit that the Respondent was aware that no commission or other remuneration is to be paid along with the referral fee and, thus, he had the knowledge of this fact priorly. In addition, he seeks to rely upon a Board



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Resolution dated 12.02.2019 with respect to recovery of incentives paid to ineligible bank officials to submit that it was pursuant to this Resolution that proceedings for recovery were initiated.

4. Learned Counsel for the Appellant, thus, submits that in view of the fact that the Respondent had knowledge of what he was receiving was not due to him, the limitation stands extended.

5. Learned Counsel for the Respondent, on the other hand, seeks to rely on paragraph 10 of the Impugned Judgment to submit that since the money was paid between the year 2007-2008 and 2011-2012, the cause of action arose at that time and the suit filed on 21.08.2019 is barred by limitation.

6. Both parties have been finally heard in the matter.

7. The undisputed facts are that as per the documents, the Respondent received monies in 2009-2010 in the sum of Rs. 3,25,788/-, in 2010-2011 in the sum of Rs.28,013/- and, in 2011-2012 in the sum of Rs. 13,035/-. The Respondent had superannuated from the services of the Appellant/Bank on 31.07.2011 and the payments sought to be recovered were incentive payments made by the Bank to the Respondent.

8. Quite clearly and admittedly no payment was made to the Respondent after 31.03.2012. In all, a sum of Rs. 3,66,836/- was stated to be due and recoverable from the Respondent.

9. As stated above, the Respondent has since passed away and the matter is now being contested by his legal representatives.

10. It is also not disputed that the Respondent retired from service on 31.07.2011. The learned Trial Court has also given a finding that recovery cannot be effected from his salary or his pension. It was in these circumstances that a suit for recovery of monies was filed by the Appellant.



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11. The proceedings are a simple suit for recovery filed by the Appellant against the predecessor-in-interest of the Respondent whereby the monies which the Appellant claimed was wrongly paid to the predecessor of the Respondent was sought to be recovered.

12. Admittedly, the last payment made before 31.03.2012, thus, the suit for recovery under Article 23 of the Schedule of the Limitation Act, 1963 was to be filed within three years from when the payment became due and the money was paid. Thus, a suit should have been filed on or before 31.03.2015 but admittedly filed on 21.08.2019.

13. The documents relied upon by the Appellant cannot be relied upon for the purpose of extension of limitation under the Limitation Act, 1963. The IRDAI Circular and the Board Resolution of the Appellant cannot extend the limitation. No other document has been relied upon by the Appellant before this Court nor has any other submission been made with respect to extension of the limitation period, as stated above.

14. Since this is a pure question of fact, no additional document is required to be seen once the Court finds that the suit is grossly barred by limitation [see *Narne Rama Murthy vs Ravula Somasundaram & Ors: (2005) 6 SCC 614*]. The learned Trial Court after examining the documents on record has found that this was the case.

15. Accordingly, this Court finds no infirmity with the Impugned Judgment of the learned Trial Court.

16. The Appeal and all pending Applications are, accordingly, dismissed.

**TARA VITASTA GANJU, J**

**SEPTEMBER 5, 2024/SA**

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