

IN THE HIGH COURT OF SINDH, KARACHI
Constitution Petition No. D- 1067 of 2023

Date

Order with signature of Judge

Present: *Mr. Justice Muhammad Junaid Ghaffar*
Mr. Justice Adnan-ul-Karim Memon.

Petitioner: Siddique Ahmed
Through Mr. Babar Ali Shaikh
Advocate.

Respondent No.2 to 4: Pakistan International Airline
& others
Through Mr. Salman Ahmed Kazi,
Advocate.

Date of hearing: 20.03.2024.
Date of Order: 20.03.2024.

ORDER

Muhammad Junaid Ghaffar, J: Through this Petition, the Petitioner has impugned Order dated 17.02.2021 passed by the Full Bench of NIRC in Appeal No.12A(04)/2020- & 24(02)/2020K and an objection has been raised by the office as to involvement of laches in this matter inasmuch as the said order has been impugned by the Petitioner on 17.02.2023. While confronted learned Counsel for the Petitioner has referred to his application under Section 5 of the Limitation Act and submits that since the Petitioner was pursuing the matter before the department for redressal of his grievance, he could not approach this Court in time; hence the petition was filed after delay of more than two years.

2. Heard learned Counsel for the Petitioner and perused the record. At the very outset we may observe that insofar as involvement of laches is concerned the same cannot be condoned or taken up by an application under Section 5 of the Limitation Act. For overcoming the issue of laches, a party has to make out a case and in situations; wherein, a case is made out, a much longer period as provided under the Limitation Act, 1908 can be condoned; whereas, if it is not so, then a delay of

even days / months cannot be condoned. There is no exception to the rule that a delay in seeking remedy of appeal, review or revision beyond the period of limitation provided under the statute, in absence of reasonable explanation, cannot be condoned and in the same manner if the remedy of filing a constitutional petition is not availed within reasonable time, the interference can be refused on the ground of laches¹. Delay would defeat equity which aids the vigilant and not the indolent². Laches in its simplest form means the failure of a person to do something which should have been done by him within a reasonable time³. If the remedy of constitutional petition was not availed within reasonable time, the interference could be refused on the ground of laches⁴. Question of laches in constitutional petition is always considered in the light of the conduct of the person invoking constitutional jurisdiction⁵.

3. Insofar as the present case is concerned, the Petitioner had been agitating his grievance before NIRC under The Industrial Relations Act, 2012, and after being successful before a Single Member of NIRC, the proceedings culminated by way of the impugned order of the Full Bench of NIRC; whereby, the appeal of Respondent was allowed. As per the said Act there is no further remedy provided by the Legislature against the Order of the Full Bench of NIRC and therefore, the extra ordinary constitutional jurisdiction has been invoked by the Petitioner. The grounds urged by the Petitioner's Counsel to overcome laches do not find any favour on merits inasmuch as after a judgment of full Bench of NIRC, there was no point for the Petitioner to pursue his case before the management of

¹ Special Secretary-II (Law & Order) v Fayyaz Dawar (order dated 14.06.2022 passed in Civil Petition No.3750 of 2020-SC citation 2023 SCP 199)

² As above

³ As above

⁴ As above

⁵ As above;

further reliance may also be placed on PLD 2013 S.C. 268 (Umar Baz Khan vs. Syed Jehanzeb and others), 2004 SCMR 400 (Farzand Raza Naqvi and others vs. Muhammad Din through Legal Heirs and others), PLJ 2012 SC 289 (State Bank of Pakistan vs. Imtiaz Ali Khan & others) and 2014 PLC (C.S.) 1292 (Asghar Khan and others vs. Province of Sindh and others)

Respondent and seeking overturning of a judgment by a judicial forum. This could not have been done even if the management so agreed; therefore, this ground does not merit any consideration and the petition is badly hit by laches.

4. Even otherwise, if merits of the case are looked into, it further appears that this Court is not convinced to exercise its discretion in any manner as the Petitioner's case is of a fake degree presented at the time of employment and the Petitioner has not been able to satisfactorily establish before the Full Bench of NIRC that the said degree was not fake. In fact, on this score alone this petition does not merit any consideration.

5. In view of hereinabove facts and circumstances of this case, this petition was dismissed along with listed application by means of a short order dated 20.03.2024 and these are the reasons thereof.

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