

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-7595 of 2022
(Muhammad Azmat Ali versus Karachi Chamber of Commerce & another)

Date	Order with signature of Judge
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Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing: 09.2.2026

Mr. Ansar Mukhtar, Advocate for Petitioner.

Mr. S.M. Iqbal, Advocate for Respondent.

Mr. Abdul Jalil, A.A.G.

ORDER

Zulfiqar Ali Sangi, J:- Through the instant Constitutional Petition instituted under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has called in question the legality, validity and propriety of the judgment dated 08.09.2022 rendered by the learned Sindh Labour Appellate Tribunal, Karachi, whereby Appeal No. KAR-51/2022 preferred by respondent No.1 was allowed and the well-reasoned judgment dated 14.02.2022 passed by the learned Sindh Labour Court No.V, Karachi was set aside. The petitioner seeks invocation of the constitutional jurisdiction of this Court on the grounds of patent illegality, jurisdictional defect, material irregularity and misapplication of settled principles of labour jurisprudence, with the prayer that the impugned appellate judgment be declared to be without lawful authority and of no legal effect, and that the judgment of the learned Labour Court directing reinstatement with full back benefits be restored.

2. The material facts, as borne out from the record, are that the petitioner was appointed on 01.09.1993 as Typist-cum-Clerk by respondent No.1 and, upon successful completion of probation, his services were confirmed in accordance with law. He served the establishment for approximately twenty-seven years and claims to have maintained an unblemished service record throughout. It is a recognized principle of service jurisprudence that long, continuous and satisfactory service constitutes a relevant mitigating circumstance while adjudicating allegations of misconduct, particularly where the

charge pertains to dishonesty, misappropriation or embezzlement, which carry serious civil consequences. On 10.11.2020, a show-cause notice was issued alleging that the petitioner, in collusion with three other employees, embezzled funds amounting to Rs.5 million while posted in the Attestation Department. The petitioner's case is that prior to issuance of the show-cause notice, he was summoned on 09.11.2020 by certain office bearers of respondent No.1, subjected to physical coercion and compelled to write and sign a purported confession on blank paper. He asserts that such alleged admission was involuntary, extracted under duress, and therefore devoid of evidentiary sanctity in the eye of law. It is a settled principle that a confession or admission obtained through coercion, undue influence or suspicious circumstances lacks probative value and cannot form the sole basis for penal action. Subsequently, vide letter dated 01.12.2020, the petitioner was dismissed from service.

3. After dismissal, the petitioner availed departmental remedies by submitting grievance notices and lodging a complaint through the Pakistan Citizen Portal; however, no redress was afforded. He thereafter invoked the jurisdiction of the learned Sindh Labour Court No.V, Karachi, by filing Grievance Application No.8/2021 under Section 34 of the Sindh Industrial Relations Act, 2013 read with Section 16(3) of the Sindh Terms of Employment (Standing Orders) Act, 2015. It is well settled that where a statutory forum is provided under labour laws for redressal of grievances arising out of termination on the ground of misconduct, such forum is the primary and competent authority to adjudicate disputed questions of fact and law pertaining to employer-employee relations.

4. Upon framing of issues and after recording evidence of both parties, including affording full opportunity of cross-examination, the learned Labour Court, vide judgment dated 14.02.2022, allowed the grievance application. It categorically held that the charge of embezzlement was not proved in accordance with law; that no lawful inquiry was conducted in consonance with statutory requirements; and that the order of dismissal was illegal, void and without lawful authority. The respondent was consequently directed to reinstate the petitioner with full back benefits. Aggrieved thereby, respondent No.1 preferred Appeal No. KAR-51/2022 before the Sindh Labour Appellate Tribunal on 14.04.2022, admittedly beyond the prescribed period of limitation. An application for condonation of delay was filed on the

basis of a medical certificate, which was accepted by the learned Tribunal, and the appeal was allowed vide judgment dated 08.09.2022.

5. Learned counsel for the petitioner contended that the appeal was hopelessly barred by time and that no “sufficient cause,” within the contemplation of the Limitation Act and the settled jurisprudence, was demonstrated. He submitted that the medical certificate relied upon was deficient in material particulars, did not disclose registration details of the medical practitioner, and was unsupported by any clinical record. It was further argued that the learned Tribunal failed to consider the well-reasoned findings of fact recorded by the Labour Court after proper appreciation of evidence, and that no documentary evidence, audit report, complaint from affected members, or lawful authorization for inquiry was produced by respondent No.1 to substantiate the allegation of embezzlement. Particular emphasis was laid on the fact that the alleged confession, admittedly written on blank paper and obtained under questionable circumstances, could not be treated as voluntary, reliable or conclusive proof of misconduct.

6. Conversely, learned counsel for respondent No.1 supported the impugned judgment, contending that the petitioner had admitted his guilt and that, in view of such admission, no formal inquiry was necessary. He maintained that the Appellate Tribunal, being the final fact-finding forum under the statute, had reappraised the evidence and rightly interfered with the findings of the Labour Court. The learned Assistant Advocate General, however, supported the petitioner’s stance and submitted that no documentary or financial record evidencing embezzlement was produced before the Labour Court.

7. We have heard learned counsel for the parties at length and perused the record with their able assistance.

8. From the pleadings and submissions advanced, the following questions arise for determination:

- (i) Whether the appeal before the Sindh Labour Appellate Tribunal was barred by limitation and whether delay was lawfully condoned in accordance with settled principles?

(ii) Whether the learned Appellate Tribunal exercised its jurisdiction within the permissible limits governing appellate interference with findings of fact recorded by a court of first instance?

(iii) Whether the dismissal of the petitioner was lawful, having been based upon proved misconduct in conformity with statutory requirements and the principles of natural justice?

9. As regards limitation, it is an admitted position that the judgment was passed by the learned Sindh Labour Court No.V, Karachi in Grievance Application No.8/2021 on 14.02.2022 and against the same Appeal was filed on 14.04.2022 with the application for condonation of delay on the ground that certified true copies were delivered on 18.02.2022 and appellant was ill therefore the appeal was not filed within 30 days as prescribed under section 47 (3) of the Sindh Industrial Relations Act, 2013. The delay was of 28 days in filing the appeal. The explanation tendered was illness of an officer of respondent No.1, supported by a medical certificate. However, the certificate neither disclosed the registration particulars of the medical practitioner nor was any clinical record produced in support thereof. No explanation was furnished as to why any other authorized office bearer could not have instituted the appeal within time. It is a settled proposition of law that the provisions relating to limitation are to be applied with full rigor, and delay can only be condoned upon demonstration of **“sufficient cause,”** which must be bona fide, reasonable and beyond the control of the party seeking indulgence. The discretion to condone delay is judicial in nature and cannot be exercised in a mechanical or arbitrary manner; it must be supported by cogent reasons recorded in the order itself. The concept of condonation of delay is not to be treated as a vested right but as an equitable relief, the grant of which depends upon strict satisfaction of statutory requirements. The law of limitation is founded upon sound public policy to ensure certainty, finality and discipline in litigation. Compliance with limitation provisions is not a mere technicality but goes to the root of the maintainability of proceedings. Before assuming jurisdiction in a matter barred by time, the Court or Tribunal must independently satisfy itself that sufficient cause, within the meaning contemplated by law, has been established. In the present case, the learned Appellate Tribunal failed to record detailed reasons while condoning delay and did not address the specific objections raised by

the petitioner. Such perfunctory exercise of discretion vitiates the order. We, therefore, hold that the appeal was time-barred and the delay was not lawfully condoned.

10. On the second question, the learned Labour Court framed specific issues, appreciated oral and documentary evidence, and returned categorical findings that the charge of embezzlement was not proved. It noted that no audit report, no complaint from any affected member, and no financial record substantiating misappropriation of Rs.5 million was produced. The respondent's witness admitted during cross-examination that there was no written authorization for the preliminary inquiry and that the alleged confession was obtained on plain paper. It is a well-established principle that an appellate forum, while competent to reappraise evidence, should not interfere with findings of fact recorded by the trial forum unless such findings are shown to be perverse, arbitrary, based on misreading or non-reading of evidence, or suffering from jurisdictional defect. The court of first instance enjoys the advantage of observing the demeanor of witnesses and assessing credibility. The impugned appellate judgment does not demonstrate any perversity or patent illegality in the findings of the Labour Court; rather, it reflects a mere substitution of opinion without addressing material admissions and deficiencies in the employer's case. Such interference amounts to transgression of the settled limits of appellate jurisdiction.

11. With regard to the third question, even if it is assumed for the sake of argument that a confession was made, the surrounding circumstances render it highly doubtful and unreliable. It was allegedly obtained prior to issuance of a formal charge; written on blank paper; unsupported by independent witnesses; and not followed by a regular domestic inquiry. Under the Sindh Terms of Employment (Standing Orders) Act, 2015, dismissal on the ground of misconduct mandates a proper inquiry, affording the employee a reasonable opportunity of defence, unless misconduct is unequivocally and voluntarily admitted. Where coercion is alleged, the burden squarely lies upon the employer to prove the voluntariness and authenticity of the admission. Allegations of embezzlement, being serious in nature and carrying stigma, must be established through cogent, reliable and unimpeachable evidence. In the present case, the employer failed to prove lawful constitution of an inquiry, production of financial records, examination of complainants, or lawful quantification of the alleged

loss. The action of dismissal, therefore, offends the fundamental principles of natural justice, particularly the rule of audi alteram partem and the requirement of a fair and transparent inquiry. An order founded on unsubstantiated allegations and defective procedure cannot be sustained in law.

12. Though this Court ordinarily exercises restraint in interfering with decisions of specialized tribunals, constitutional intervention is warranted where jurisdiction is exercised illegally, mandatory provisions of law are disregarded, discretion is exercised arbitrarily, or findings are based on misreading or non-reading of evidence. The impugned judgment suffers from material irregularity, jurisdictional infirmity and misapplication of settled principles of labour law, thus attracting the constitutional supervisory jurisdiction of this Court.

13. For the foregoing reasons, we hold that:

(a) The appeal before the Sindh Labour Appellate Tribunal was barred by limitation and delay was not lawfully condoned;

(b) The learned Appellate Tribunal exceeded the permissible limits of appellate interference by setting aside well-reasoned findings of fact recorded by the Labour Court without demonstrating perversity or illegality;

(c) The dismissal of the petitioner was illegal, void ab initio and without lawful authority, having been passed in violation of statutory requirements and principles of natural justice.

14. Consequently, this Constitutional Petition is allowed. The impugned judgment dated 08.09.2022 passed by the Sindh Labour Appellate Tribunal, Karachi in Appeal No. KAR-51/2022 is set aside, and the judgment dated 14.02.2022 passed by the learned Sindh Labour Court No.V, Karachi in Grievance Application No.8/2021 is restored. Respondent No.1 is directed to reinstate the petitioner forthwith with full back benefits as ordered by the learned Labour Court. Compliance shall be made within thirty (30) days from receipt of this judgment.

15. These are the detailed reasons in support of our short order dated 09.02.2026.

JUDGE

JUDGE