

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 18 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For hearing of CMA No.381/2021.
- 2. For hearing of main case.
- 3. For hearing of CMA No.383/2021.

28.08.2026

Mr. Khalid Mahmood Rajpar, advocate for the applicant.
Ms. Dil Khurram Shaheen, advocate for the respondent.

This is a time barred reference and for such purpose, CMA 381/2021 has been preferred. Even the reason pleaded in the affidavit is Covid-19. Respectfully, the same could not be demonstrated to justify each day of delay in preferring this reference. Learned counsel for the respondent places on record the order dated 21.01.2026 passed in SCRA 1342 of 2023 which reads as follows:

“21.01.2026

Mr. Khalid Mehmood Rajpar, advocate for the applicant

Admittedly this is a time-barred reference. Per learned counsel the delay is about three years. The only reason given in the affidavit is negligence of the department. Be that as it may, while we appreciate the candid nature of the grounds cited in the affidavit same cannot be considered to condone the delay.

It is the considered opinion of the Court that the prescriptions of limitation are not mere technicalities and disregard thereof would render entire law of limitation otiose¹. The Superior Courts have consistently maintained that it is incumbent upon the Courts to first determine whether the proceedings filed there before were within time and the Courts are mandated to conduct such an exercise regardless of whether or not an objection has been taken in such regard². The Superior Courts have held that proceedings barred by even a day could be dismissed³; once time begins to run, it runs continuously⁴; a bar of limitation creates vested rights in favour of the other party⁵; if a matter was time barred then it is to be dismissed without touching upon merits⁶; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance⁷. It has

¹ *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as 2019 MLD 249.
² *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as 2004 CLD 732.
³ 2001 PLC 272; 2001 PLC 143; 2001 PLC 156; 2020 PLC 82.
⁴ *Shafaatullah Qureshi vs. Pakistan* reported as PLD 2001 SC 142; *Khizar Hayat vs. Pakistan Railways* reported as 1993 PLC 106.
⁵ *Dr. Anwar Ali Sahito vs. Pakistan* reported as 2002 PLC CS 526; *DPO vs. Punjab Labour Tribunal* reported as NLR 1987 Labour 212.
⁶ *Muhammad Tufail Danish vs. Deputy Director FIA* reported as 1991 SCMR 1841; *Mirza Muhammad Saeed vs. Shahabudin* reported as PLD 1983 SC 385; *Ch Muhammad Sharif vs. Muhammad Ali Khan* reported as 1975 SCMR 259.
⁷ *WAPDA vs. Aurangzeb* reported as 1988 SCMR 1354.

been maintained by the honorable Supreme Court⁸ that each day of delay had to be explained in an application seeking condoning of delay and that in the absence of such an explanation the said application was liable to be dismissed. It is pertinent to observe that the preponderant bar of limitation could not be dispelled by the applicant.

No case is pleaded and / or articulated to merit grant of this application as the delay remains *prima facie* unjustified. Therefore, CMA No.3307/2022 is dismissed and consequently this reference is dismissed as being barred by limitation.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969.”

Learned counsel for the respondent states that the order is para-materia and the present reference may also be disposed of for the same reasons and upon same terms as aforesaid. Learned counsel for the respondent articulates no cavil to the record. Order accordingly.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(10) of the Customs Act, 1969.

Judge

Judge

Khuhro/PS

⁸ *Lt. Col. Nasir Malik vs. ADJ Lahore & Others* reported as 2016 SCMR 1821; *Qamar Jahan vs. United Liner Agencies* reported as 2004 PLC 155.