ORDER SHEET
BEFORE THE SINDH SUBORDINATE JUDICIARY SERVICE TRIBUNAL (HIGH COURT OF SINDH AT KARACHI)

Service Appeal No. 04 of 2024

Order with signature of Judge

1. For orders on CMA No.1084/2026
2. For orders on CMA No.1085/2026
3. For hearing of main case

16.11.2026

Mr. Abdul Samee, advocate for the appellant

This is a time-barred appeal pending since 2024, listed for orders; even notice has not been sought till date. The appeal is barred by approximately five months, therefore, CMA No.1084 of 2026 has been preferred seeking for the said delay to be condoned.

The grounds articulated are that since the appellant was out of country and subsequently ill, therefore, he was prevented from filing appeal within time. The impugned order is the decision in a departmental appeal whereby the removal of the appellant from service was upheld. The grounds for dismissal are absence from duty in excess of 774 days. The impugned order denotes that the appellant did not join service even after his leave had expired and the conduct continued until the same culminated in his dismissal. Learned counsel remained unable to demonstrate any infirmity in the rationale relied upon in the impugned order not could it be demonstrated that the conclusion could not be reasonably rested there-upon. Notwithstanding the foregoing the issue before us is to determine whether sufficient grounds exists for the delay in filing the present appeal to be condoned.

The absence from Pakistan led to the dismissal of the appellant and the same appears to have been continued despite his dismissal. Learned counsel adverts to the departmental appeal having been filed by the appellant on 17.01.2024, however, states that immediately thereafter appellant left Pakistan once again. Upon being confronted as to how the subsequent application dated 14.04.2024, has been preferred by the

applicant in person if he was out of country, he states that the same was done by his brother / via courier. Nothing is on record to demonstrate either contention. The absence from Pakistan is of the appellant's own volition and the same could not be demonstrated to justify the delay.

The next aspect to consider is the legal ground invoked. Learned counsel has drawn out attention to two documents in such regard available at pages 167 and 173 of the court file. The first document is of Pathology Report and does not demonstrate any incapacitation whatsoever. The second document is a letter of one Deepak Ultrasound which is reproduced herein below :-

> "LIVER:-
> Normal in size 14.0cm, shape and echotexture. No IHD dilatation seen. No focal mass or cyst seen. CBD 0.3cm and portal vein 0.9cm within normal limit seen.
>
> G/BLADDER:-
> Partially contracted seen. No stone visualized.
>
> PANCREAS:-
> Normal in size, shape and echotexture. No focal mass or cyst seen.
>
> SPLEEN:-
> Normal in size 10.6cm, shape and echotexture. No focal mass or cyst seen.
>
> KIDNEYS:-
> Both kidneys are normal in size, shape and echotexture. No calculi or hydronephrosis seen. No focal mass or cyst seen. Cortico-medullary distinction is intact.
> U/BLADDER:-
> Sonolucent, wall thickness is normal. No stone or growth seen.
>
> Bowel loops are FULL WITH GASES seen. No illio-caecal lump or lymph nodes seen. No free fluid seen at the time of scan.
>
> COMMENTS:-
>
> Gaseous distended bowel loops"

Respectfully once again the instrument relied upon does not demonstrated any incapacitation attributable to the appellant.

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 otiose[1]. 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 regard[2]. The Superior Courts have held that proceedings barred by even a day could be dismissed[3]; once time begins to run, it runs continuously[4]; a bar of limitation creates vested rights in favour of the other party[5]; if a matter was time barred then it is to be dismissed without touching upon merits[6]; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance[7]. It has been maintained by the honorable Supreme Court[8] 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.

In view of hereof and in mutatis mutandis application of the rationale enunciated by the Division Bench order of this Tribunal passed in Service Appeal No.13 of 2016 in the case of *Ashraf Yar Khan vs High Court of Sindh, through Registrar*, we find the delay could not be justified to the satisfaction of this Tribunal, therefore, application is hereby dismissed and consequently the appeal is hereby dismissed in *limine*.

Chairman

Member

Amjad

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[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*.
[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*.