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

Service Appeal No. 03 of 2024

Order with signature of Judge

1. For orders on CMA No.1088/2026
2. For hearing of main case

16.11.2026

Mr. Shahzaib Shabir Gopang advocate files vakalatnama on behalf of appellant which is taken on record.

This is a time-barred appeal pending since 2024, in which even notice has not been issued till date. Learned counsel for the appellant states that this appeal is time-barred by approximately three years and in such regard CMA No.1088/2024 has been preferred under Section 5 of Limitation Act, 1908, seeking for the delay to be condoned. It is this application that has to be decided at the very onset.

Per learned counsel the delay was occasioned for three reasons. Firstly, that instead of filing the present appeal, the appellant filed a review application instead. Upon dismissal of the review application, another application was filed seeking review of the dismissal of the order in review. Learned counsel supplement this ground that the third and final ground which was that the delay was also occasioned because the appellant was disturbed due to proceedings of foreclosure of his property on account of his bank default. Learned counsel contends that the time that has been spent seeking remedy before the alternate forums could not be counted towards limitation and the appeal be decided on merits rather than the appellant being non-suited on the technicality of limitation.

Heard and perused. Upon specific query learned counsel states that there is no provision for review under the law for the order that was initially sought to be reviewed. Learned counsel further submits that the law also does not provision for further application seeking review of the order passed dismissing his application for review. Learned counsel states that these actions were taken on the advice of then counsel, however, respectfully, the same could not be demonstrated to be grounds to justify the said conduct. The disturbance due to extraneous factors, foreclosure or otherwise, could also not be demonstrated to be justifiable grounds per Section 5 of the Limitation Act, 1908.

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

[1] *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as *2019 MLD 249*.

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 that 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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[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*.