

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)



**PRESENT:**

Mr. Justice Munib Akhtar  
Mrs. Justice Ayesha A. Malik  
Mr. Justice Aqeel Ahmed Abbasi  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Miangul Hassan Aurangzeb

CIVIL APPEALS NO.1195 OF 2015, 735 OF 2016, 680, 1129, 1166, 1180, 1553 OF 2020, 83, 456, 747, 770, 796, 1369, 1479 OF 2021 AND CIVIL PETITIONS FOR LEAVE TO APPEAL NO.307 TO 309, 335 TO 358, 423, 1337 OF 2020, 2655, 3997 OF 2019, 609-P OF 2015, 1686 OF 2020, 7, 1416, 1417, 1479 OF 2021, 515-L OF 2021, 1767-L, 2419-L OF 2019, 975-L OF 2017, 2481-L OF 2019, 875-L, 908-L, 952-L OF 2017, 2643-L OF 2016, 357-L OF 2022, 252-L, 80-L OF 2019, 435-L, 755-L OF 2022, 386-L OF 2023, 1989-L OF 2020, 834-L OF 2019, 1392-L, 840-L OF 2021, 1621-L OF 2020, 379-L OF 2023, 1179-L OF 2019, 99-L OF 2021, 2407-L OF 2016, 1579-L, 1811-L, 1779-L, 2133-L, 2305-L, 2105-L, 2097-L OF 2017, 1853-L, 1107-L, 1093-L, 2255-L OF 2016, 234-L, 2007-L OF 2017, 1595-L, 1639-L, 1775-L, 1796-L OF 2020, 545-L, 869-L OF 2021, 2902-L, 3399-L, 3503-L OF 2019, 814-L OF 2021, 1435-L OF 2020, 2031-L OF 2019, 672-L OF 2023, 504-L OF 2020, 3266-L OF 2016, 2519-L, 2399-L OF 2018, 132-L, 727-L, 907-L, 1117-L, 1230-L, 1282-L, 1291-L, 1576-L, 1592-L, 1615-L, 1827-L, 1890-L, 1968-L OF 2020, 27-L, 200-L, 204-L, 248-L, 271-L, 470-L, 559-L, 598-L, 632-L, 665-L, 704-L, 705-L, 864-L, 1031-L, 1042-L, 1102-L, 1258-L, 1754-L, 1971-L, 2173-L, 2243-L, 2296-L OF 2021 AND 1075-L OF 2017

[Against judgment/order dated 6.5.2015, 12.11.2014, 7.5.2019, 8.7.2019, 10.5.2019, 29.4.2019, 25.6.2019, 17.10.2018, 28.6.2018, 13.11.2018, 18.10.2018, 12.10.2018, 19.12.2019, 10.7.2020, 4.12.2019, 11.2.2020, 23.5.2019, 25.7.2019, 10.9.2015, 11.2.2020, 30.9.2020, 25.1.2021, 18.2.2021, 24.2.2021, 22.5.2019, 28.6.2019, 10.2.2017, 25.6.2019, 30.1.2017, 10.2.2017, 14.2.2017, 1.7.2016, 21.10.2021, 5.12.2018, 16.10.2018, 14.12.2021, 6.11.2022, 20.10.2020, 16.1.2019, 1.4.2021, 3.2.2021, 18.9.2020, 26.1.2023, 6.2.2019, 3.11.2020, 26.2.2016, 31.1.2017, 9.5.2017, 7.4.2017, 7.6.2017, 17.7.2017, 8.5.2017, 20.6.2017, 16.2.2016, 7.1.2016, 16.2.2016, 13.5.2016, 24.11.2016, 8.5.2017, 5.8.2020, 8.9.2020, 25.8.2020, 21.10.2020, 22.1.2021, 1.3.2021, 18.7.2019, 17.6.2019, 24.9.2019, 4.2.2021, 2.3.2020, 23.5.2019, 12.10.2022, 10.12.2019, 19.9.2016, 10.10.2018, 24.10.2018, 9.12.2019, 15.1.2020, 16.12.2019, 11.2.2020, 5.6.2020, 22.1.2020, 16.6.2020, 11.8.2020, 7.8.2020, 6.10.2020, 1.10.2020, 26.10.2020, 15.10.2020, 16.12.2020, 20.10.2020, 13.1.2021, 12.1.2021, 15.12.2020, 7.1.2021, 26.1.2021, 4.2.2021, 21.1.2021, 6.1.2021, 26.1.2021, 18.2.2021, 19.2.2021, 1.4.2021, 9.3.2021, 12.3.2021, 30.9.2021, 26.10.2021, 21.10.2021, 6.9.2021, 1.12.2021 and 9.2.2017, passed by the Federal Service Tribunal, Islamabad, Sindh Service Tribunal, Karachi, Khyber Pakhtunkhwa Service Tribunal, Punjab Service Tribunal, in Appeal Nos.702(R)CS of 2013, 119 of 2014, 642 of 2018, 963 of 2019, 2700 of 2017, 250(P)CS of 2019, 1129(R)CS of 2019, 290(R)CS of 2017, 2885 of 2017, 4131 of 2018, 1624(R)CS of 2018, 274(L) of 2017, 1247 of 2019, 684(P)CS of 2019, 1770(R)CS, 1781(R)CS, 1788(R)CS, 1760(R)CS, 1762(R)CS to 1765(R)CS, 1767(R)CS, 1768(R)CS, 1775(R)CS, 1777(R)CS, 1783(R)CS, 1778(R)CS, 1779(R)CS, 1784(R)CS to 1787(R)CS, 1769(R)CS, 1771(R)CS to 1773(R)CS, 1775(R)CS, 1776(R)CS, 1780(R)CS, 1782(R)CS, 1761(R)CS of 2018, 1690(R)CS of 2018, 4549 of 2018, 1857 of 2019, 420 of 2011, 2407 of 2019, 3098 of 2020, 4114, 4115 of 2020, 552 of 2021, 5081 of 2019, 712 of 2017, 2039 of 2018, 827 of 2015, 4231 of 2018, 4702 of 2014, 3972 of 2016, 4438 of 2015, 2014 of 2016, 2648 of 2019, 3124 of 2017, 2625 of 2018, 907 of 2020, 1433 of 2018, 2294 of 2022, 773 of 2018, 3246 of 2018, 865 of 2019, 2763 of 2020, 2689 of 2018, 3858 of 2022, 1607 of 2018, 4684 of 2020, 4346 of 2015, 141 of 2017, 4341 of 2012, 781 of 2017, 3712 of 2016, 55 of 2017, 1707 of 2017, 4089 of 2016, 1770 of 2012, 213 of 2015, 4920 of 2015, 1442 of 2014, 198 of 2016, 1708 of 2017, 2618 of 2020, 1503 of 2020, 1424 of 2018, 5648 of 2019, 4283 of 2018, 1039 of 2020, 1299 of 2019, 2820 of 2017, 320 of 2019, 4622 of 2019, 4756 of 2019, 1772 of 2019, 769 of 2022, 4229 of 2017, 4077 of 2015, 1812 of 2015, 945 of 2013, 1076 of 2019, 4881 of 2019, 2559 of 2017, 621 of 2020, 1427 of 2020, 2274 of 2017, 3072 of 2019, 1464 of 2020, 4744 of 2018, 2227 of 2020, 1676 of 2020, 118 of 2020, 5895 of 2019, 3491 of 2018, 4423 of 2018, 3834 of 2020, 4418 of 2020, 4991 of 2020, 4774 of 2020, 4656 of 2020, 173 of 2021, 2629 of 2020, 1120 of 2019, 1892 of 2020, 317 of 2018, 4985 of 2019, 483 of 2021, 3845 of 2018, 318 of 2018, 4234 of 2017, 1443 of 2019, 1580 of 2021, 5622 of 2019, 1567 of 2020, 688 of 2018 and 4884 of 2012, respectively]

CA.1195 of 2015	Secretary, Establishment Division, Islamabad Vs. Nawaz Ahmed Sheikh
CA.735 of 2016	Usman Ali Chachar Vs. Moula Bux Chhachhar and another
CA.680 of 2020	Mian Abdul Saeed Vs. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar and others
CA.1129 of 2020	Ghulam Asfia Vs. Inspector General of Police, Punjab, Lahore and others
CA.1166 of 2020	Muhammad Saleem Malik Vs. Capital City Police Officer, Lahore and another
CA.1180 of 2020	Saeed Zaman Vs. Federal Government of Pakistan through Secretary, Interior Ministry, Islamabad and others
CA.1553 of 2020	Rashid Ali Panwar Vs. Secretary Interior, Islamabad and others
CA.83 of 2021	Muhammad Ahsan Sakhawat Vs. The Director General, Pakistan Post, Islamabad and others
CA.456 of 2021	Abdul Raouf Vs. Superintendent of Police, Mobiles, Lahore and others
CA.747 of 2021	Tanveer Hussain Malik Vs. Deputy Commissioner, Chakwal and another
CA.770 of 2021	Muhammad Asghar Vs. Director General, Pakistan Post, Islamabad, Islamabad and another
CA.796 of 2021	Muhammad Mushtaq Vs. Pakistan Railways through its Divisional Superintendent/ Workshop Division, Lahore and another
CA.1369 of 2021	Waheed Nawaz Vs. Inspector General of Police, Punjab, Lahore and others
CA.1479 of 2021	Secretary Finance Division, Government of Pakistan, Islamabad Vs. Muhammad Saleh and others
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CPLA.309 of 2020	Arbab Khan Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and

	another
CPLA.335 of 2020	Kashif Riaz Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
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CPLA.337 of 2020	Abdul Majid Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.338 of 2020	Umer Pervaiz Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
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CPLA.340 of 2020	Muhammad Ashraf Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.341 of 2020	Shazil Khan Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.342 of 2020	Muhammad Naeem Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.343 of 2020	Muhammad Hanif Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
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CPLA.345 of 2020	Naeem Khan Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
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CPLA.349 of 2020	Shahid Aftab Vs. Managing Director,

	Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.350 of 2020	Khurram Shehzad Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
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CPLA.352 of 2020	Muhammad Sardar Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.353 of 2020	Sehran Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.354 of 2020	Shakeel Ahmed Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.355 of 2020	Muhammad Arshad Ali Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.356 of 2020	Syed Wasim Ali Shah Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.357 of 2020	Muhammad Waseem Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
CPLA.358 of 2020	Shoukat Amin Anjum Vs. Managing Director, Carriage Factory, Pakistan Railways, Islamabad and another
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CPLA.2655 of 2019	Naqesh Akhtar Vs. Regional Police Officer, Rawalpindi and another
CPLA.3997 of 2019	Waqas Saleem Vs. Regional Police, Rawalpindi Region, Rawalpindi and another
CPLA.609-P of 2015	Sultan Ayaz Khan Vs. Superintendent, Headquarter Prison, D.I. Khan and another
CPLA.1686 of 2020	Azhar Hussain Vs. District Police Officer, Rajanpur and others

CPLA.7 of 2021	Shahid Nazeer Vs. Deputy Inspector General of Police, Telecommunications and another
CPLA.1416 of 2021	Muhammad Nadeem Vs. The Regional police Officer, Rawalpindi and another
CPLA.1417 of 2021	Murad Hussain Vs. The Regional Police Officer, Rawalpindi and another
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CPLA.1767-L of 2019	Ijaz ul Hassan Vs. The Deputy Inspector General of Police, Telecommunication & Transport, Punjab, Lahore, etc.
CPLA.2419-L of 2019	Sikandar Abbas Vs. Additional Superintendent of Police, District Gujrat, etc.
CPLA.975-L of 2017	Irfan Malik Vs. The Senior Superintendent of Police, Multan
CPLA.2481-L of 2019	Muhammad Aslam Vs. Chief Executive Officer (District Education Authority), Bahawalpur, etc.
CPLA.875-L of 2017	Habib Ullah Vs. Executive District Officer (Education), Sheikhpura, etc.
CPLA.908-L of 2017	Hafiz Fiaz Hussain Vs. The S.P. Punjab Highway Patrol, D.G. Khan, etc.
CPLA.952-L of 2017	Atique Hanif Vs. Superintendent Central Jail, Lahore, etc.
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CPLA.357-L of 2022	Sajid Hussain Vs. Inspector General of Police, Punjab, Lahore, etc.
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	Superintendent, Civil Hospital, Bahawalpur, etc.
CPLA.1989-L of 2020	Munir Ahmad Vs. Inspector General (Prisons), Punjab, Lahore, etc.
CPLA.834-L of 2019	Shabbir Hussain Vs. Capital City Police Officer, Lahore, etc.
CPLA.1392-L of 2021	Ch. Naeem Vs. Registrar, Cooperative Society, Punjab, Lahore, etc.
CPLA.840-L of 2021	Umer Mateen Vs. District Police Officer, Gujrat, etc.
CPLA.1621-L of 2020	Khuram Rehman Vs. Chief Secretary Punjab, Civil Secretariat, Lahore, etc.
CPLA.379-L of 2023	Farrukh Riaz Vs. Inspector General of Police, Punjab Highway Petrol, Lahore, etc.
CPLA.1179-L of 2019	Yasir Saleem Vs. The Superintendent of Police, Headquarter, Gujranwala, etc.
CPLA.99-L of 2021	Sajid Ali Usman Vs. Superintendent, District Jail, Shahpur, etc.
CPLA.2407-L of 2016	Sajid Ali Vs. The I.G.P., Punjab, Lahore, etc.
CPLA.1579-L of 2017	Muhammad Ashraf Vs. Inspector General of Police, Punjab, Lahore, etc.
CPLA.1811-L of 2017	Abdul Rashid Vs. D.I.G. (Prisons), Faisalabad Region, etc.
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CPLA.2133-L of 2017	Ahmad Khan Vs. District Police Officer, Jhang, etc.
CPLA.2305-L of 2017	Ghulam Abbas Vs. City Police Officer, Faisalabad, etc.
CPLA.2105-L of 2017	Mukaram Iqbal Vs. Additional Inspector General of Police, etc.
CPLA.2097-L of 2017	Nasir Ali Vs. Inspector General of Police, Punjab, Lahore, etc.
CPLA.1853-L of 2016	Naseer Ahmad Vs. Superintendent of Police, Emergency Squad, Lahore, etc.
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CPLA.1093-L of 2016	Abdul Majeed Vs. The Superintendent, District Jail, Vehari, etc.

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CPLA.2007-L of 2017	Tahira Yasmeen Vs. The Chief Executive Officer, Faisalabad, etc.
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CPLA.1639-L of 2020	Tanveer Ahmad Vs. District Education Officer (M-EE), Faisalabad, etc.
CPLA.1775-L of 2020	Javed Iqbal Vs. Government of Punjab through Secretary School Education, Lahore, etc.
CPLA.1796-L of 2020	Muhammad Aslam Vs. Deputy District Education Officer (ME), Tehsil Kasur, etc.
CPLA.545-L of 2021	Shaukat Hayat Vs. Assistant Director (Admin) for Chief Executive Officer (DEA), Gujranwala, etc.
CPLA.869-L of 2021	Amjad Parvaiz Vs. District Education Officer, Elementary Education (M), Sialkot, etc.
CPLA.2902-L of 2019	Fakhar Abbas Vs. Superintendent District Jail, Shahpur, etc.
CPLA.3399-L of 2019	Mohsin Zia Vs. Capital City Police Officer, Lahore, etc.
CPLA.3503-L of 2019	Muhammad Nadeem Abid Vs. Regional Police Officer, Sahiwal, etc.
CPLA.814-L of 2021	Muhammad Sabir Vs. The Inspector General (Prisons), Punjab, Lahore, etc.
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CPLA.2031-L of 2019	Sajid Naseer Vs. Inspector General of Police, Punjab, Lahore, etc.
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CPLA.2399-L of 2018	Muhammad Zafar Abbas Vs. The Registrar, Lahore High Court, Lahore, etc.
CPLA.132-L of 2020	Aqib (Ex/Constable) Vs. Superintendent of Police, Anti-Riot Force, Lahore, etc.
CPLA.727-L of 2020	Zeeshan Khalid Vs. District Police Officer, Gujrat, etc.
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CPLA.1230-L of 2020	Numan Ahmad Vs. Additional Inspector General of Police, Traffic Police, Lahore, etc.
CPLA.1282-L of 2020	Muhammad Nasrullah Vs. The Superintendent of Police Telecommunication Punjab, Lahore, etc.
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CPLA.1576-L of 2020	Abdul Rasheed Vs. Superintendent of Police, Admin and Security, Faisalabad, etc.
CPLA.1592-L of 2020	Aizad Qamar Iqbal Vs. Inspector General of Police, Punjab, Lahore, etc.
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CPLA.1827-L of 2020	Abdul Rasheed alias Rasheed Ahmed Vs. Conservator of Forests/Administrator, Lal Suhanra National Park, Bahawalpur, etc.
CPLA.1890-L of 2020	Toseef-ur-Rehman Vs. Regional Police Officer, Gujranwala Region, Gujranwala, etc.
CPLA.1968-L of 2020	Muhammad Bilal Khan Vs. Superintendent of Police, Punjab Highway Patrol, Dera Ghazi Khan Region, etc.
CPLA.27-L of 2021	Amman Ullah Vs. The Superintendent of Police Telecommunication, Punjab, Lahore, etc.
CPLA.200-L of 2021	Rafaqat Ali Vs. Inspector General of Police, Punjab, etc.
CPLA.204-L of 2021	Tariq Mahmood Vs. Inspector General of Police, Punjab, Lahore, etc.



CPLA.248-L of 2021	Muhammad Ahmed Hassan Asad Vs. Additional Inspector General of Police/Commandant, police Constabulary, Lahore, etc.
CPLA.271-L of 2021	Imtiaz Hussain Vs. The Deputy Inspector General of Police, Punjab Highway Patrol, Lahore, etc.
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CPLA.559-L of 2021	Ejaz Ahmad Vs. Regional Police Officer, Gujranwala Range, Gujranwala, etc.
CPLA.598-L of 2021	Rizwan Ahmed Vs. The Regional Police Officer, Rawalpindi Region, Rawalpindi, etc.
CPLA.632-L of 2021	Sajid Nawaz Vs. Inspector General of Police, Punjab Highway Patrol Police, Lahore, etc.
CPLA.665-L of 2021	Ghulam Ali Vs. Superintendent of Police, Headquarters, Lahore, etc.
CPLA.704-L of 2021	Muhammad Farooq Amir Vs. Head of Traffic Police, Punjab, Lahore, etc.
CPLA.705-L of 2021	Adil Hamyion Vs. The Division Forest Officer, Bahawalnagar, etc.
CPLA.864-L of 2021	Amir Hameed Vs. Inspector General of Police, Punjab, Lahore, etc.
CPLA.1031-L of 2021	Muhammad Qaiser Naveed Khan Vs. The Capital City Police Officer, Lahore, etc.
CPLA.1042-L of 2021	Shahid Hussain Vs. RPO Sahiwal, etc.
CPLA.1102-L of 2021	Shahid Rasool Vs. Additional Superintendent of Police, Sialkot, etc.
CPLA.1258-L of 2021	Pervaiz Iqbal Vs. The Inspector General of Police, Punjab, Lahore, etc.
CPLA.1754-L of 2021	Shahid Ali Vs. Superintendent of Police, Cantt Division, Lahore, etc.
CPLA.1971-L of 2021	Naveed Malik Vs. Capital City Police Officer, Lahore, etc.
CPLA.2173-L of 2021	Farmood Ahmad Vs. AIG/Administration and Security, Punjab, Lahore, etc.
CPLA.2243-L of 2021	Muhammad Shahbaz Vs. Regional Police Officer, Gujranwala, etc.
CPLA.2296-L of 2021	Altaf Hussain Vs. Assistant Commissioner, Kharian, District Gujarat, etc.

CPLA.1075-L of 2017 Ihsan ul Haq Vs. I.G. of Police, Punjab, Lahore, etc.

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(in CA.1166 of 2020 & CP.1767-L of 2019)

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In person  
(in CA.1553 of 2020)

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(in CA.83 of 2021)

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Mr. Jawaid Masood Tahir Bhotti, AOR  
(in CAs.456 and 770 of 2021)

Mr. Bashir Khan, ASC  
(in CA.747 of 2021)

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(in CA.1369 of 2021 and CPs.2655 & 3997  
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(in CP.975-L of 2017)

Mr. Sultan Mehmood Dar, ASC  
(in CP.2481-L of 2019)

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(in CP.952-L of 2017)

Mr. Muhammad Irfan Malik, ASC  
(in CPs.252-L of 2019 and 840-L of 2021)

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(in CPs.80-L of 2019, 1392-L, 2097-L,  
814-L of 2021, 2519-L of 2018, 727-L,  
1592-L, 1968-L of 2020 and 204-L of 2021)

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(in CPs.1989-L and 1621-L of 2020)

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(in CPs.1579-L of 2017 and 1853-L of  
2016)

Mr. Liaqat Ali Malik, ASC  
(in CP.1779-L of 2017)

Mr. Umer Farooq, ASC  
(in CP.2305-L of 2017)

Mr. Asif Nazir Awan, ASC  
(in CPs.1107-L of 2016, 1796-L of 2020  
and 2173-L of 2021)

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(in CP.1093-L of 2016)

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(in CP.2255-L of 2016)

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(in CPs.3399-L of 2019 and 27-L of 2021)

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(in CP.3503-L of 2019)

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(in CP.2031-L of 2019)

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(in CP.504-L of 2020)

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(in CP.3266-L of 2016)

Mr. Seerat H. Naqvi, ASC  
(in CP.2399-L of 2018)

Mr. Tahir Aslam Qureshi, ASC  
(in CP.132-L of 2020)

Ch. Fiaz Ahmad Sanghairah, ASC  
(in CP.907-L of 2020)

Mian Shah Abbas, ASC  
(in CP.1117-L of 2020)

Mr. Abdul Majeed Iftikhar, ASC  
(in CP.1282-L of 2020)

Mr. Tauseef Ejaz Malik, ASC  
(in CP.1576-L of 2020)

Mr. Muhammad Akhtar Munir Pirzada,  
ASC  
(in CP.1827-L of 2020)

Mr. Muhammad Sarwar, ASC  
(in CP.271-L of 2021)

Ms. Tabinda Islam, ASC  
(in CP.470-L of 2021)

Mr. Javed Imran Ranjha, ASC  
(in CP.559-L of 2021)

Mr. Muhammad Ozair Chughtai, AOR  
(in CP.598-L of 2021)

Mr. Faiz Rasool Jalbani, ASC

(in CP.632-L of 2021)

Mr. Asif Mumtaz, ASC  
(in CP.665-L of 2021)

Mr. Naveed Ahmad Kh., ASC  
(in CP.1031-L of 2021)

Mr. Amjad Iqbal Khan, ASC  
(in CP.1042-L of 2021)

Ch. Abdul Ghaffar, ASC  
(in CP.2243-L of 2021)

For the Respondents : Mr. Jawad M. Pasha, ASC  
(via video link from Lahore)  
Mr. Farman Ullah Khattak, ASC  
Dr. Mushtaq, DSP  
Mr. Amjad Hussain, DSP, Special Branch  
Mr. Imran Rasheed, DSP, Rajanpur  
Mr. Zaman,  
Assistant Superintendent, G.P.O.  
Mr. Basharat Mughal,  
Assistant Superintendent, G.P.O.  
In person  
(in CAs.735 of 2016 and 1553 of 2020)  
Mr. Ramzan Khan, ASC  
Mr. Shahid Kamal Khan, ASC  
Mr. Aftab Alam Yasir, ASC  
(in CP.672-L of 2023)

Dates of Hearing : 13.03.2025, 14.04.2025, 15.04.2025,  
22.04.2025, 23.04.2025, 06.05.2025,  
07.05.2025 and 08.05.2025.

### **JUDGMENT**

**AYESHA A. MALIK, J.-** The orders impugned before us are the orders of different service tribunals being the Punjab Service Tribunal, the Sindh Service Tribunal, the Federal Service Tribunal and the Khyber Pakhtunkhwa Service Tribunal (collectively referred to as the **Service Tribunals**). Leave was originally granted in Civil Appeal No.735 of 2016 on 09.03.2006 on the question as to where the departmental appeal was barred by time, whether the appeal before the Service Tribunals would automatically warrant dismissal. There have been several hearings in the matter, however, the issue was crystalized vide order dated 13.03.2019 now reported as the *Usman Ali Chhachhar* case,<sup>1</sup> where this Court concluded that the question raised in 2006 needed to be considered by a larger bench due to the variations in the judgements relied upon by the Service Tribunals. A larger bench of five members was formed and, in its order, dated

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<sup>1</sup> Usman Ali Chhachhar v. Moula Bux Chachhar (2019 SCMR 2043) (**Usman Ali Chhachhar case**).

10.11.2020, Mr. Shahid Anwar Bajwa, ASC<sup>2</sup> and Mr. Abdul Rahim Bhatti, ASC<sup>3</sup> were appointed as *amici curiae* to assist the Court in the matter.

2. Mr. Shahid Anwar Bajwa, ASC as *amicus* stated that under the applicable Federal and Provincial Civil Servants (Appeal) Rules, in the event of any delay, reasonable cause can be shown before the departmental authority to condone the delay. Consequently, the departmental authority has the power to condone the delay and where it does not condone the delay, that order becomes appealable before the service tribunal which means that the tribunal is required to examine the issue of the appeal being barred by time before the department as well as the merits of the case. He stated that as per the Civil Servants Acts and the Rules from the different Provinces, the departmental authority can look at reasonable cause to condone the delay, however, in most cases, they fail to exercise this power. Furthermore, the service tribunal is required to look at the discretion exercised by the departmental authority in condoning or not condoning the delay and must examine this aspect of the matter before proceeding with the case. He explained that as the appellate forum, the Service Tribunals could not have dismissed the appeals without considering the issue of limitation as they are obligated to examine all aspects of the case. He also clarified that the Limitation Act, 1908 (**Limitation Act**) is not applicable to departmental proceedings in service matters, hence, the law of limitation need not be applied strictly meaning thereby that the departmental authorities can show flexibility while considering the question of appeals being barred by time.

3. Mr. Abdul Rahim Bhatti, ASC as *amicus* argued that since the Limitation Act is not applicable to departmental authorities, the first judicial forum available to a civil servant is the service tribunal, which must take note of the question of limitation as decided by the departmental authority and should decide on the issue of limitation. He took us through each of the relevant Civil Servants Acts as well as the Rules framed thereunder to urge the point that a departmental authority may condone the delay, however, it is for the service tribunal while exercising appellate jurisdiction to consider the question of limitation as well as the merits of the case, and decide accordingly.

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<sup>2</sup> CMA No.1390 of 2025 in CPLA No.1337 of 2020 (Synopsis by *amicus curiae*).

<sup>3</sup> CMA No.1856 of 2022 in CA Nos.1195 of 2015, 735 of 2016 and CPLA No.1337 of 2020 (Synopsis by *amicus curiae*).

The thrust of his argument was that even if a departmental appeal is barred by time the service tribunal must exercise its jurisdiction and examine the case as the first judicial forum, failing which the impact is such that it leaves the civil servant without any remedy. He also stated that by outright dismissing the case, it means that the service tribunal has not exercised jurisdiction which is in fact an abdication of its jurisdiction.

4. The arguments by the counsel were on the same lines, that the Service Tribunals could not outright dismiss the appeals filed by civil servants simply because the departmental appeal was barred by time as an appeal is a valuable statutory right wherein the Service Tribunals have the jurisdiction to examine the issue of the departmental representation being barred by time, its condonation and the merits of the case. They argued that such outright dismissal was in fact an abdication of jurisdiction and left the civil servant remediless. They also argued that the Service Tribunals were the first independent judicial forum where the case is to be heard and this in itself is a valuable right which cannot be ignored.

5. The basic dispute before us is with reference to the automatic dismissal of appeals before the Service Tribunals on the ground that as the departmental appeals were barred by time, consequently the appeals before the Service Tribunals were not competent and had to be dismissed. In terms of the order in the *Usman Ali Chhachhar* case, the case law relied upon by the Service Tribunals neither settled the law nor was there clarity as to the rationale behind such findings. Accordingly, we now proceed to specifically examine the legal question as to whether an appeal before the Service Tribunal against an order of the departmental representation dismissing the appeal for being barred by time, is competent and should be adjudicated upon, or whether such an appeal merits outright dismissal. We will also examine the question as to whether the departmental authority was competent to condone the delay where the representation filed before it was barred by time as this question is related to the basic issue before us. It is clarified that we are not deciding the merits of each and every case and have limited ourselves to simply answering the legal question before us. The cases will subsequently proceed individually, on the basis of their own facts and circumstances. For this purpose, the relevant laws are the Civil

Servants Acts from the respective Provinces as well as the Rules framed thereunder. The applicable laws and Rules are noted hereunder:

Jurisdiction	Acts	Rules
Federal	The Civil Servants Act, 1973	The Civil Servants (Appeal) Rules, 1977
Punjab	The Punjab Civil Servants Act, 1974	The Punjab Civil Service Rules <sup>4</sup>
Sindh	The Sindh Civil Servants Act, 1973	The Sindh Civil Servants (Appeal) Rules, 1980
Khyber Pakhtunkhwa	The Khyber Pakhtunkhwa Civil Servants Act, 1973	The Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986
Balochistan	The Balochistan Civil Servants Act, 1974	The Balochistan Civil Servants (Appeal) Rules, 2013

6. The other relevant law is the Limitation Act. This law governs the period of limitation across a broad spectrum of legal proceedings as specified in the First Schedule of the Limitation Act which prescribes for the period of limitation for particular circumstances and cases. Section 3 of the Limitation Act makes the period of limitation, as specified in the First Schedule, critical to legal proceedings because where proceedings are filed beyond the period of limitation, these merit dismissal. This Court in the *Khushi Muhammad* case<sup>5</sup> held that the law of limitation is designed to ensure legal certainty, finality of claims, and the orderly administration of justice by requiring parties to assert their rights within prescribed timeframes. Hence, it is not just a technical objection rather merits due consideration as substantive rights may accrue in favour of parties which rights can neither be brushed aside lightly nor discarded. Section 5 of the Limitation Act prescribes that the period of limitation may be enlarged if sufficient cause is given for not initiating the proceedings within the stipulated time. This is the relevant section for condoning the delay which requires the applicant to explain the delay by providing sufficient cause. The term *sufficient cause* is not defined under the Limitation Act but its meaning has been settled by the courts to be a cause beyond the control of the applicant which merits due care and attention by the applicant, and further requires a detailed explanation as to the delay of each and every day. Section 29(2) of the Limitation Act provides that where a special or local statute explicitly prescribes for a period of limitation, being a period

<sup>4</sup> Civil Service Rules (Punjab), Volume I.

<sup>5</sup> *Khushi Muhammad v. Fazal Bibi* (PLD 2016 SC 872) (5 member) (**Khushi Muhammad case**).



different from the First Schedule of the Limitation Act then the period given in the special or local statute shall apply. Section 29(2)(b) of the Limitation Act further provides that the remaining provisions thereof shall not apply which means that where the special law or local statute has prescribed for the period of limitation it must also make Section 5 of the Limitation Act specifically applicable failing which the benefit of Section 5 of the Limitation Act cannot be extended under the special law or local statute. This Court has affirmed this legal position in the *Allah Dino* case<sup>6</sup> and the *Muhammad Nazir* case<sup>7</sup> being that where specific periods of limitation are found within the relevant statute without explicit reference to Sections 5 and 12 of the Limitation Act then these statutes fall within the scope of Section 29(2)(b) of the Limitation Act and consequently, the benefit of Section 5 of the Limitation Act cannot be availed. Hence, the power to condone the delay must be specifically provided for in the special or local statute.

7. The relevant Provincial and Federal Service Laws, being the Civil Servants Act, 1973 (Federal), the Punjab Civil Servants Act, 1974, the Sindh Civil Servants Act, 1973, the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the Balochistan Civil Servants Act, 1974 (collectively referred to as the **Service Laws**), provide the timeframe applicable to each Province or the Federation, as the case may be, for the purposes of appealing or seeking a representation before the departmental authority. Under the Service Laws, where a civil servant has a right to file an appeal or seek a representation pertaining to the terms and conditions of his or her service, they must avail their remedy before the department, within the timeframe stipulated in the Service Laws being either within 30 or 60 days from the date of decision of the department. For ready reference, these provisions are provided as follows:

Jurisdiction	Acts	Provisions
Federal	The Civil Servants Act, 1973	Section 22. Right of appeal or representation.  (1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made within <u>thirty days</u> of the date of such order.

<sup>6</sup> Allah Dino v. Muhammad Shah (2001 SCMR 286) (**Allah Dino case**).  
<sup>7</sup> Muhammad Nazir v. Saeed Subhani (2002 SCMR 1540) (**Muhammad Nazir case**).

<b>Punjab</b>	The Punjab Civil Servants Act, 1974	<p>Section 21. Right of appeal or representation.</p> <p>(1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is allowed to a civil servant by any rules applicable to him, such appeal or application shall, except as may otherwise be prescribed, be made within <u>sixty days</u> of the communication to him of such order.</p>
<b>Sindh</b>	The Sindh Civil Servants Act, 1973	<p>Section 23. Right of appeal or representation.</p> <p>(1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made within <u>thirty days</u> of the date of such order.</p>
<b>Khyber Pakhtunkhwa</b>	The Khyber Pakhtunkhwa Civil Servants Act, 1973	<p>Section 22. Right of appeal or representation.</p> <p>(1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed be made within <u>thirty days</u> of the date of such order.</p>
<b>Balochistan</b>	The Balochistan Civil Servants Act, 1974	<p>Section 22. Right of appeal or representation.</p> <p>(1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made within <u>thirty days</u> of the date of such order.</p>

8. The aforementioned Service Laws are supplemented with specific rules being the Civil Servants (Appeal) Rules, 1977, the Punjab Civil Services Rules (CSR) Volume I, the Sindh Civil Servants (Appeal) Rules, 1980, the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and the Balochistan Civil Servants (Appeal) Rules, 2013 (collectively referred to as the **Rules**) which lay out the powers of the department to either *withhold* the appeal or *condone* the delay. These Rules are framed pursuant to the power given under the relevant

Service Laws<sup>8</sup> where the Provincial Government has the power to make rules. The provisions in the Rules prescribing the timeline are provided hereunder:

Jurisdiction	Rules	Provision	Framework
Federal	Rule 7(1)(c) of the Civil Servants (Appeal) Rules, 1977	1. An appeal may be withheld by an authority not lower than the authority from whose order it is preferred if: -  (c) it is not preferred within the time specified in sub-rule (4) of Rule 5 and no <u>reasonable</u> cause is shown for the delay...	Withholding
Punjab	Rule 14.21(1)(c) of the Punjab Civil Services Rules, Volume I, Chapter XIV	1. An appeal or application for revision may be withheld by an authority subordinate to Government if-  (c) it is an appeal and is not preferred within six months after the date on which the appellant was informed of the order appealed against, and no <u>reasonable</u> cause is shown for the delay...	Withholding
Sindh	Rule 3(1) of the Sindh Civil Servants (Appeal) Rules, 1980	(1) A civil servant aggrieved by an order of the competent authority relating to the terms and conditions of his service may, within 30 days from the date of the order, prefer an appeal to the appellate authority:  Provided further that the appellate authority or as the case may be, Government may condone the delay in preferring appeal or review petition, if it satisfied that the delay was for reasons <u>beyond the control</u> of the appellant or for the reasons that the earlier appeal or review petition was not addressed to the proper forum...	Condonation
Khyber	Rule 3(1) of the	(1) A civil servant	Condonation

<sup>8</sup> Section 23(2) of the Punjab Civil Servants Act, 1974. Section 26(2) of the Sindh Civil Servants Act, 1973. Section 26(2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973. Section 25(2) of the Balochistan Civil Servants Act, 1974.

<b>Pakhtunkhwa</b>	Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986,	<p>aggrieved by an order passed or penalty imposed by the competent authority relating to the terms and conditions of service may, within thirty days from the date of communication of the order to him, prefer an appeal to the appellate authority:</p> <p>Provided further that the appellate or reviewing authority, as the case may be, may condone the delay in preferring the appeal or the review petition, if it is satisfied that the delay was for the reasons beyond the control of the appellant or that the earlier appeal or review petition was not addressed to the correct authority.</p>	
<b>Balochistan</b>	Rule 5 of the Balochistan Civil Servants (Appeal) Rules, 2013	<p>5. No Review / Appeal preferred under these rules shall be entertained unless such appeal is preferred within a period of sixty (60) days from the date on which a copy of order appealed against is delivered to the appellant:</p> <p>Provided that the Reviewing Authority/ Appellate Authority may entertain the appeal / representation after the expiry of the said period, if it is satisfied that the appellant had <u>sufficient</u> cause for not preferring the Appeal / review / Representation in time or that the earlier appeal or Review Petition was not addressed to the correct Authority.</p>	Condonation

As is evident from the above, there are two legal frameworks prescribed by the Rules for condoning the delay; the first being the *withholding* framework and the second the *condonation* framework. In the Federal and Punjab jurisdictions, the relevant Rules permit the

authority to *withhold* an appeal if it is barred by time and no reasonable cause is shown. For instance, Rule 7(1)(c) of the Civil Servants (Appeal) Rules, 1977 (**Rules of 1977**), and Rule 14.21(1)(c) of the Punjab Civil Services Rules both state that an appeal *may be withheld* if filed beyond the given time and no reasonable or sufficient cause is demonstrated. In contrast, the Rules applicable in Sindh, Khyber Pakhtunkhwa and Balochistan adopt a condonation-based framework, expressly allowing the departmental appellate authority to entertain an otherwise time barred appeal upon a finding that sufficient cause exists. The difference is that in the *withholding* framework, the departmental authority is permitted to withhold an appeal if it is filed beyond the prescribed timeframe and no reasonable cause is shown. This process postpones adjudication until the delay is properly explained, meaning that if reasonable cause is shown, the appeal can be fixed for hearing thereby indicating that the delay has been condoned. In contrast, the condonation-based framework allows the departmental authority to condone the delay where sufficient cause is shown and proceed to decide the appeal on merits. While the withholding and condonation frameworks differ in how they process time barred appeals, in substance both frameworks allow the departmental authority to consider the reasons and then condone the delay. The departmental authority is, therefore, by way of the legal framework, if satisfied, required to exercise discretion and apply its mind to the cause of delay and determine whether reasonable or sufficient cause is shown which explains the delay, after which it can proceed with the appeal. This discretion to condone any delay is inherent in both frameworks, whether framed as a decision to *withhold* the appeal or *condone* the delay, the rationale being whether reasonable cause has been shown.

9. A reading of the Service Laws and Section 29(2) of the Limitation Act provides that where specific time periods have been prescribed in the Service Laws and the Rules for filing departmental appeals, the power to condone the delay as per Section 5 of the Limitation Act has not been made applicable to departmental appeals. Accordingly, the Limitation Act is not strictly applicable to departmental appeals, however, it is worth reiterating that the department still maintains the power to withhold the appeal or condone the delay as per the Rules where *reasonable cause* has been shown. Accordingly, to clarify, while the Limitation Act is strictly not

applicable to departmental proceedings for the purposes of setting the timeframe for filling the appeal and also for authorizing power to condone the delay, the Rules allow departmental authorities to consider the delay and condone it where reasonable cause is established.

10. The ability of the department to condone the delay in service matters is grounded in the concept of *reasonable cause*, as referred to in the Rules, and *sufficient cause*, as set out in the Limitation Act. The law recognizes both reasonable cause and sufficient cause as synonymous for the purposes of excusing delay. While reasoning on the question of *sufficient cause* forms the basis of most judicial precedent, however, the two expressions are frequently used together and applied interchangeably. In practice, both terms refer to whether the cause shown is good enough to excuse the delay. The rationale always being that permitting condonation is to acknowledge that delays may occur for reasons beyond a person's control. In the *Khushi Muhammad* case, a five-member bench of this Court affirmed that while limitation extinguishes the remedy once the prescribed period lapses and is to be strictly applied, such delay may be condoned where an applicant demonstrates sufficient cause. Sufficient or reasonable cause must be assessed on a case-by-case basis where the applicant must show that the delay was due to circumstances beyond their control and that they acted with due diligence and good faith. This Court has clarified what may and may not constitute sufficient cause being that mistaken legal advice is not, by itself, a ground for condonation unless the applicant can establish that the advice was given in good faith and based on genuine ambiguity in the law. Mere negligence, ignorance of the law, inadvertence, or poverty also do not justify condonation. On the other hand, circumstances such as an honest mistake regarding the appropriate forum or *bona fide* reliance on a defective court order may if duly proven support a finding of sufficient cause. The term *sufficient cause* is deliberately elastic and it cannot be reduced to a fixed definition because its application varies with the facts and circumstances of each case. Public functionaries are custodians of fairness and must treat limitation not as a tool of exclusion but one guided by equity, reason and accessibility. These principles apply to departmental authorities who serve as the first forum for appeals in service matters. Their discretion to condone delay must be exercised

fairly and with due application of mind. Given that the relevant Rules allow the delay to be condoned, there are sufficient guidelines in the form of judgements to enable the departmental authority to consider the issue of delay and their discretion must be exercised in a manner that is fair, consistent and informed by reasoned inquiry.

11. The departmental order can be challenged before the Service Tribunals being an appellate forum as prescribed by the Constitution.<sup>9</sup> Article 212 of the Constitution provides that the appropriate legislatures are to establish service tribunals to deal exclusively with matters arising out of the terms and conditions of service of civil servants including disciplinary issues.<sup>10</sup> Article 212(2), provides that once such a tribunal is established, the jurisdiction of all other courts is ousted in respect of matters related to the terms and conditions of service of a civil servant and as per Article 212(3) a direct appeal to the Supreme Court is provided for, subject to the condition that a substantial question of law of public importance arises. In exercise of this constitutional mandate, the legislatures, provincial and federal, enacted the law which established service tribunals and which defined the structure, powers, and jurisdiction of the given service tribunal. The relevant laws are the Service Tribunals Act, 1973 (Federal), the Punjab Service Tribunals Act, 1974, the Sindh Service Tribunals Act, 1973, the Khyber Pakhtunkhwa Service Tribunals Act, 1974 and the Balochistan Service Tribunals Act, 1974 (collectively referred to as the **Service Tribunal Laws**) which essentially provide for the establishment of Service Tribunals to exercise jurisdiction in matters related to the terms and conditions of service of civil servants. As to the appellate jurisdiction, the Service Tribunal Laws provide that the Service Tribunals hear appeals arising out of *final orders* made by the departmental authority in respect of the terms and conditions of their service and further that the Service Tribunals have the power to confirm, set aside, vary or modify the order appealed against. In exercise of this jurisdiction, the Service Tribunals are conferred the power of Civil Courts under the Code of Civil Procedure, 1908 which includes enforcing the attendance of any person and examining them on oath, compelling the production of documents and issuing commission for the examination of witnesses and documents.<sup>11</sup> So far as Section 5 of the Limitation Act is concerned, that is specifically

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<sup>9</sup> The Constitution of the Islamic Republic of Pakistan, 1973 (**Constitution**).

<sup>10</sup> Asghar Ali Shah v. Kaleem Arshad (2024 SCMR 563), Justice Ayesha A. Malik (Minority view).

<sup>11</sup> Pakistan Railways v. Muhammad Amin (2025 SCMR 646).

applicable under the Service Tribunal Laws for the purposes of appeals before the Service Tribunal. Each of the Service Tribunal Laws provides that Sections 5 and 12 of the Limitation Act will apply to appeals filed under them which means that the Service Tribunals have the legal authority to condone the delay in time barred appeals if a person can show reasonable cause for the delay.

12. The constitutional and legal framework is such that the Service Tribunals are a specialized appellate forum which have exclusive jurisdiction to deal with all matters related to the terms and conditions of service of civil servants and in relation thereto they have the authority to decide all legal and factual issues. As an appellate forum, Service Tribunals can examine final orders issued by the department such that they can reevaluate the evidence and the legality of the department's decision which includes ensuring that procedural fairness was duly observed. Importantly, as the first judicial appellate forum, the Tribunal must determine whether the departmental action taken against a civil servant complies with the law<sup>12</sup> and whether it was fairly taken ensuring due process. Accordingly, it is the first judicial forum available to the civil servants for the resolution of their disputes related to the terms and conditions of service. Service Tribunals must critically examine the decision and decision-making process of the department as they are the exclusive check on the exercise of authority by the executive when it comes to terms and conditions of service of civil servants. Such is the magnitude of the constitutional mandate which place the burden of safeguarding the rights of civil servants on the Service Tribunal. Consequently, as the first judicial appellate forum, Service Tribunals are required to act as independent fact finding forums that must base their decisions on the evidence and the record brought before them.<sup>13</sup> This will include issues related to time barred representations before the department and the plea of reasonable cause and the process followed with reference to the condonation of delay or withholding of appeal as required under the Rules.

13. As we examined the record in great detail, we found that in many of the cases before us, the representations brought before the department were accompanied by an application seeking condonation

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<sup>12</sup> Secretary to Government of the Punjab, Law and Parliamentary Affairs Department, Lahore v. Ali Ahmad Khan (2025 SCMR 489).

<sup>13</sup> Union of India v. Tulsiram Patel (AIR 1985 SC 1416) and L. Chandra Kumar v. Union of India (AIR 1997 SC 1125).



of delay. It was argued and brought to our notice that often times the departmental authority ignores the application seeking condonation of delay, thereby leaving the issue unattended. In the first instance, as we have emphasized where such an application is filed, it is necessary for the department to consider it and decide it depending on whether it can condone the delay or fix the appeal, if it was withheld. The Rules across the Federal and Provincial jurisdictions either adopt a withholding framework or a condonation framework, both of which require the departmental authority to apply its mind to the explanation offered for the delay. Hence, departmental authorities must comply with this legal requirement. Once a decision is taken by the departmental authority by way of an order, then the same constitutes a final order for the purposes of the Service Tribunals. Accordingly, the Service Tribunals were required to examine not only the existence of these applications, but also whether sufficient cause had been shown for the delay in accordance with law in its capacity as an appellate forum and as a fact finding forum. It was also obliged to distinguish between cases where condonation was sought and those where it was not, and to deal with each according to the procedure laid down. It is important to emphasize that the hearing of appeals before the Service Tribunals are akin to hearing the matter afresh where the Service Tribunals must examine the entire record on both facts and legal issues. As such, Service Tribunals are under a duty to consider the full record and evaluate both facts and law before deciding on the maintainability or merits of an appeal. In this regard, the issue of time barred appeals before the department presents both factual and legal issues which need resolution and cannot be ignored. Hence, the question of delay before the department cannot be brushed aside through a summary dismissal and requires adjudication both at the departmental stage and, upon appeal, before the Service Tribunal.

14. The issue before us is the outright dismissal of the appeals before the Service Tribunals, given that the departmental appeals were barred by time. We have examined the record in detail and note that the common reason given in the orders by the Service Tribunals is a templated application of the *PIAC* case<sup>14</sup>, holding the appeals incompetent due to the departmental appeal being barred by time, and therefore not maintainable before the Service Tribunals. This case appears to be the prevailing understanding on the issue, and is

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<sup>14</sup> Chairman, P.I.A.C. v. Nasim Malik (PLD 1990 SC 951) (**PIAC case**).

repeatedly cited by the Service Tribunals. In order to appreciate the reasoning adopted by the Service Tribunals for dismissing the appeals filed before it, we have examined the *PIAC* case as well as some of the more frequently cited cases being the *Abdul Wahid* case,<sup>15</sup> *Anwar Ali* case,<sup>16</sup> *Razi Uddin* case<sup>17</sup> *Muhammad Aslam* case,<sup>18</sup> *Raja Khan* case,<sup>19</sup> *Ghulam Shabbir* case<sup>20</sup> and *Muhammad Asif Chatha* case<sup>21</sup> (collectively referred to as the **Cases Relied Upon**). A close reading of these cases shows that these cases simply repeat the conclusion of the *PIAC* case without adding independent reasoning and repeatedly state that it is settled law that where the departmental appeal is barred by time, in such cases, the appeal before the Service Tribunal is not competent and merits dismissal. We have also examined the *PIAC* case which arises out of appeals from a decision of the Federal Service Tribunal. The question of limitation arose in those appeals as the representation of the respondent-civil servant before the department was barred by time. Adverting to the question of limitation, this Court held in the *PIAC* case that since the departmental representation was barred by time, therefore, the appeal before the Service Tribunal is not competent. We have examined this judgment in great detail and find that the judgment relied on Regulation 87 of the Pakistan International Airlines Corporation Employees (Service and Discipline) Regulations, 1985 (**Regulations**) with reference to the period for filing the departmental representation/appeal as prescribed in the Regulations. The said Regulations prescribe that every appeal or review application shall be submitted within a period of 30 days of the receipt of the order appealed against. Further that an appeal can be withheld by the authority if it is not filed within time and no reasonable cause is shown. In the event that an appeal is withheld, it can be resubmitted within one month from the date on which it was withheld if it is resubmitted after addressing the issue. From a bare reading of the Regulations, it is evident that these prescribe for 30 days within which a departmental appeal or application must be filed and in the event that there is some delay and no reasonable cause is shown for the delay, the appeal can be *withheld*. This means that where there is a delay in filing the departmental appeal, an application for condonation of the delay can be filed to show reasonable cause and

<sup>15</sup> Abdul Wahid v. Chairman, Central Board of Revenue (1998 SCMR 882) (**Abdul Wahid case**).

<sup>16</sup> Anwar Ali Sahto v. Federation of Pakistan (PLD 2002 SC 101) (**Anwar Ali Sahto case**).

<sup>17</sup> Razi Uddin v. Member-II, Punjab Service Tribunal, Lahore (2004 PLC (CS) 468) (**Razi Uddin case**).

<sup>18</sup> Muhammad Aslam v. WAPDA (2007 SCMR 513) (**Muhammad Aslam case**).

<sup>19</sup> Raja Khan v. Manager (Operation) Faisalabad Electric Supply Company (2011 SCMR 676) / 2011 PLC(CS) 856 (**Raja Khan case**).

<sup>20</sup> Ghulam Shabbir v. Divisional Superintendent Pakistan Railways (2013 PLC (CS) 1087) (**Ghulam Shabbir case**).

<sup>21</sup> Muhammad Asif Chatha v. Chief Secretary, Government of Punjab (2015 SCMR 165) (**Muhammad Asif Chatha case**).

further if that cause is deemed reasonable, the appeal can be resubmitted. Hence, the concept of withholding the appeal is akin to marking an objection and requiring the objection to be removed. In the case of delay, the competent authority presumably will consider the causes for delay and if the reasons are accepted, the appeal or review can be resubmitted. On reading the Regulations we are unable to appreciate the connection or conclusion that where a departmental appeal is barred by time, it renders the appeal before the service tribunal as incompetent. Furthermore, it appears that in this case, the service tribunal decided the matter on its merit and this Court was of the opinion that unless the tribunal was conscious of the question of limitation and consequently condoned the same, it could not decide the case on its merits because that would mean that the tribunal has impliedly condoned the delay which goes against the decision of this Court in *Ahsan Ali* case<sup>22</sup> which requires there to be a conscious application of mind for a decision on condonation of the delay by the appellate forum. We find that even this reliance does not really explain or justify how the appeal before the Service Tribunal *ipso facto* become incompetent if the departmental appeal is barred by time.

15. Consequently, as we have earlier mentioned, the withholding framework allows an applicant to show sufficient cause for the delay, which must then be considered so as to decide whether the appeal should be fixed for hearing or the condonation application should be rejected. Having said that, we note that in the *PIAC* case, this Court did not consider the requirements of the applicable Service Laws and Rules. Rule 7(1)(c) of the Rules of 1977 states that an appeal may be withheld if it is not filed within the specified time and no reasonable cause is shown for the delay. Hence, for the purposes of the *PIAC* case and the issue of limitation before the department, the Rules of 1977 give the power to condone delay where sufficient cause is shown, which aspect of the matter was left unaddressed. Furthermore, as the *PIAC* case did not engage with the applicable Service Laws or the Rules wherein the power to condone the delay is specifically given, mere reliance on the Regulations does not explain why an appeal before the Service Tribunal is incompetent simply because it was barred by time before the department. One possible reason for the Court's approach could have been that, since the delay could not be condoned at the departmental stage, the matter had to be

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<sup>22</sup> *Ahsan Ali v. District Judge* (PLD 1969 SC 167) (**Ahsan Ali case**).

dismissed by the department and accordingly given the same treatment by the Service Tribunal, with no examination of the facts of the case or the applicable law. However, as already stated, this view is inconsistent with the law, which obligates Service Tribunals to review the department's refusal or failure to condone delay and to decide the issue of limitation for itself. Consequently, we find that the law laid down in the *PIAC* case is *per incuriam* and should not be followed. It is important to note that the very purpose of an appeal is to challenge the discretion exercised by the departmental authority, whether on preliminary issues such as limitation or on the merits. In this setting, when a departmental authority rejects or ignores a plea for condonation, the Service Tribunal's appellate role is precisely to scrutinize that exercise of discretion. To decline jurisdiction on the ground that the departmental appeal was time barred is, in effect, a violation of the Service Tribunal's constitutional mandate. The Service Tribunal is not intended to be a mere rubber stamp of the department's view, but the first independent judicial forum tasked with safeguarding the rights of civil servants. An appeal is a statutory right, and its availability cannot be nullified through a mechanical invocation of limitation at the departmental stage without the Service Tribunal undertaking its own assessment of whether sufficient cause was or was not shown. Hence, there appears to be no legal justification for declaring such appeals incompetent before the Service Tribunals.

16. To reiterate, the question before us on the point of limitation is whether a service appeal can be deemed incompetent before the Service Tribunal if it was barred by time before the department. For the reasons discussed above, we hold that such an appeal cannot be rendered incompetent merely on this ground, as the Service Tribunal is independently vested with the power, under the relevant Service Laws and Rules, to examine whether sufficient cause exists for withholding or condoning the delay, where appropriate. It must therefore examine, in each case, whether the departmental authority dealt lawfully with the application for condonation, and whether the explanation offered meets the standard of sufficient or reasonable cause. Only after that inquiry can it decide whether to entertain the appeal on merits. The orders of the Service Tribunals which summarily dismissed appeals as incompetent solely because the departmental representation was belated are inconsistent with law and cannot stand. In view of the foregoing, these cases including Civil

Appeal No.735 of 2016, have been heard and determined on this very issue, however, as the facts and circumstances in each of the cases may differ and require due consideration, office is directed to fix all the cases before appropriate benches for determination in accordance with law. It is clarified that, in cases where a similar issue may have arisen, however, has been decided and in which review petitions have also been decided, such matters constitute past and closed transactions and shall remain unaffected by this judgment. The legal question is disposed of accordingly.

JUDGE

JUDGE

JUDGE

JUDGE

JUDGE

'Approved for Reporting'  
*Azmat/Nurayn Qasim\**

Announced in open court on \_\_\_\_\_ at \_\_\_\_\_

JUDGE