

IN THE SUPREME COURT OF PAKISTAN

(Review Jurisdiction)

PRESENT:

Mr. Justice Syed Mansoor Ali Shah

Mr. Justice Aqeel Ahmed Abbasi

C.R.P No. 292/2024 in C.P.L.A. No. 4449/2021

(For review of order dated 14.09.2023 passed by this Court in C.P.L.A. No. 4449/2021)

Federal Public Service Commission through its Secretary, Islamabad

... Petitioner

Versus

Kashif Mustafa and others

... Respondent(s)

For the Petitioner: Mr. Rana AsadUllah Khan, Addl. AGP

For the Respondent(s): Mr. Shehryar Kasuri

Assisted by: Umer A. Ranjha, Judicial Law Clerk, Supreme Court of Pakistan

Date of Hearing: 08.05.2025

ORDER

Syed Mansoor Ali Shah, J.– We note that the instant petition is barred by a delay of 204 days. The accompanying application for condonation of delay fails to disclose any sufficient cause that justifies condoning such an inordinate delay.

2. Moreover, we observe that the judgment of the Lahore High Court, Lahore dated 27.05.2021 challenged in the earlier round before this Court merely held that the intra-court appeal (“ICA”) filed by the petitioner institution before the High Court was not maintainable in terms of Section 3(2) of the Law Reforms Ordinance, 1972, as an appeal was provided under the Federal Public Service Commission Ordinance, 1977 against the original order. In simple terms, if the law dealing with the original proceedings offers a remedy of appeal, revision, or review, then the right to file an ICA before the High Court is barred. It is immaterial whether the aggrieved person actually availed that remedy or not; what matters is the legal availability of such remedy under the law.¹ This conclusion was upheld by this Court through the impugned order, now under review, dated 19.09.2023.

3. In the above facts, we are of the considered view that the instant petition is not only hopelessly time barred but also frivolous and vexatious.

¹ Syed Asif Raza v. Pakistan International Airlines PLD 2001 SC 182.

This Court has recently affirmed that, while the right of access to courts is a cornerstone of our constitutional framework, it is not an unqualified or limitless right.² Such access must be exercised with responsibility and in a manner that upholds the dignity and finality of judicial proceedings. When litigants, such as the petitioner institution before us, initiate repetitive and meritless petitions, they erode the integrity of the judicial process. Frivolous litigation not only clogs judicial dockets but also drains public resources and delays justice for genuine litigants. This becomes more concerning when such frivolous claims are filed by government or public statutory functionaries like the petitioner institution, who are expected to act with higher responsibility and to protect, rather than squander, public resources and judicial time.

4. When public bodies initiate litigation, they do so not as private litigants pursuing personal interests, but as custodians of the law and fiduciaries of the public interest. They are under an onerous obligation to act fairly, responsibly, and in accordance with the Constitution. The petitioner institution ought to have exercised greater legal discipline and internal scrutiny before invoking the jurisdiction of this Court. This case exemplifies a gross misuse of the judicial forum, initiated not to seek legitimate relief, but rather to harass and exhaust the opposing party through abuse of process. In these circumstances, not only is the petition dismissed, but costs are imposed to mark the Court's disapproval of such conduct and to deter the recurrence of similar misuse by public authorities.³ The Court further directs that the concerned institution shall undertake an internal inquiry to identify and hold accountable the officials responsible for authorizing the filing of this petition. Only through such institutional self-correction can public bodies restore public confidence, reduce the burden of unnecessary litigation, conserve precious state resources, and fulfil their constitutional mandate with integrity.

5. This Court notes with grave concern that the present petition, filed by a statutory public institution, is not only legally untenable and devoid of merit, but also reflective of a deeper, disturbing culture of risk-averse governance. Increasingly, public officers, driven by a misplaced fear of personal liability, resort to filing petitions before the highest court of the land not on the strength of legal grounds but to insulate themselves from accountability. Such conduct reduces the judicial forum from a platform for genuine legal address to a tool of bureaucratic self-preservation and

² District Education Officer (Female) Charsadda v. Miss Sonia Begum 2025 SCP 160 (SCP citation).

³ Javed Hameed v. Aman Ullah 2024 SCMR 89 and Lutfullah Virk v. Muhammad Aslam Sheikh PLD 2024 Supreme Court 887 and Zakir Mahmood v. Secretary, Ministry of Defence 2023 SCMR 960.

indecision. This mindset must be deprecated in the strongest terms. Litigation is not a substitute for responsible administrative decision-making. Public institutions must be strong and confident enough to make lawful decisions and stand by them. A culture built on fear and undue accountability only weakens the institutional spine of governance. It is imperative that public bodies cultivate the legal courage and internal discipline to act decisively. In institutional strength lies the strength of the nation. The present petition exemplifies not only a gross abuse of judicial process but also a troubling abdication of institutional responsibility. Courts are not to be approached mechanically or defensively, especially by those entrusted with public functions and legal stewardship. In these circumstances, the petition is dismissed with exemplary costs, to mark this Court's disapproval and to deter the continuation of such irresponsible and obstructive practices by public bodies.

6. Accordingly, the instant petition is dismissed with costs of Rs.100,000/- (Rupees One Hundred Thousand only), imposed under Order XXVIII, Rule 3 of the Supreme Court Rules, 1980, for not only being frivolous, vexatious and having squandered the valuable time of the Court but also reflective of institutional abdication and poor governance. The costs shall be deposited within fifteen (15) days with any charitable institution recognized under the Thirteenth Schedule to the Income Tax Ordinance, 2001. Proof of such deposit must be placed on the record of this case. In the event of non-compliance, the office shall place the matter before the appropriate Bench for further orders.

7. Let a copy of this order be sent to the Secretary, Ministry of Law and Justice as well as the Office of the Attorney-General for Pakistan who shall ensure its immediate circulation to all Ministries and their attached departments. The legal wings of these public bodies must take serious stock of the concerns expressed herein and initiate concrete measures to stem the tide of wasteful and meritless litigation. It is imperative that institutional litigation be guided by legal merit, not fear or self-preservation. This practice must be decisively brought to an end.

Judge

Judge

Islamabad,
08th May, 2025.

Approved for reporting
Iqbal