

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

BEFORE:  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Adnan Iqbal Chaudhry

C.P. No.D-1901 of 2017

Ikram Ali  
Versus  
M/S Pakistan Telecommunication Company Ltd. & others

Date	Order with signature of Judge
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**Date of hearing: 06.11.2019**

Mr. Rafiullah for petitioner.

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**Muhammad Shafi Siddiqui, J.**- This petition is against the concurrent findings of two Courts below. The grievance petition was held to be barred by time by learned Single Member, NIRC, Karachi, which order was maintained by NIRC Full Bench.

Brief facts of the case are that a show-cause notice was issued to the petitioner on 22.01.2011 which was replied on 25.01.2011 followed by an inquiry and personal hearing. Major penalty was awarded on 29.01.2011. The record shows that a departmental appeal was filed on 08.02.2011 however it is claimed that these submissions were not responded. Consequently, he (petitioner) filed a grievance petition on 30.08.2012 as disclosed in the order under section 33 of IRO 2011 before NIRC Karachi Bench along with an application for condonation of delay. However, even if the grievance petition itself is seen it disclosed a date of 30.01.2012 i.e. a year after his dismissal.

NIRC Bench at Karachi dismissed the petition on the ground that petition was grossly time barred. The Bench relied upon the case of Blue Star Spinning Mills v. Collector of Sales Tax (2013 SCMR 587), Lever

Brothers Pakistan Ltd. v. Sindh Labour Appellate Tribunal (1990 PLC 523) and Imtiaz Ali v. Atta Muhammad (PLD 2008 SC 462). In substance the Bench held that delay of every day has to be explained satisfactorily in the supporting affidavit of the application wherein condonation of delay was claimed/sought. Aggrieved of it petitioner filed an appeal before the Full Bench which maintained the order.

We have heard learned counsel for petitioner and perused the material available on record. Learned counsel for petitioner has made an attempt to argue merits of the case however unless the hurdle as to limitation is crossed we are not inclined to hear the case on merit.

In paragraph 3 of the supporting affidavit to condonation application, it is claimed that the order is void ab initio and hence no limitation would run against such void orders. In paragraph 4 of the affidavit petitioner claimed that after filing appeal for the reinstatement he was given assurance that a lenient view would be taken and that during this period he became psycho patient and started taking medicines in this regard. The two prescriptions of the doctor do not take the case of the petitioner anywhere as he was only an outdoor patient and the gravity does not seem to be anywhere near the disclosure made by learned counsel for petitioner during the course of arguments or in the affidavit. Similarly by classifying the order as void without any logic does not attract the principles to deal with void orders, which otherwise is not. These grounds could hardly be considered for condoning the delay.

The pendency of submissions in the shape of mercy petition may have been there but that was not the recourse available under the law. The only recourse that was available was to file a grievance petition within the prescribed time. Such pendency/submission of mercy petition cannot condone the delay and/or laches. If he was good enough to file

the submissions before the department as a departmental appeal, he could have filed grievance petition on the same day and/or same reasoning before NIRC. Thus, no plausible explanation is provided by the petitioner which could have enabled the two forums below to condone the delay in filing the grievance petition. Petition as such does not require any interference and is accordingly dismissed in limine along with pending application.

Above are the reasons of our short order dated 06.11.2019.

Dated:

Judge

Judge