

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Yahya Afridi
Mr. Justice Syed Hasan Azhar Rizvi
Mr. Justice Shahid Waheed

CPLA No.2753-L of 2023

(Against the order dated 27.03.2023 passed by the Punjab Service Tribunal, Lahore, in Appeal No.816 of 2022)

Government of the Punjab through Secretary Primary & Secondary Healthcare Department, Lahore, etc **...Petitioners**

Versus

Dr. Muhammad Shahid Hussain **...Respondent**

For the Petitioner(s) : Mr. Baleegh uz Zaman Ch.,
Addl. Advocate General, Punjab
Ms. Ayesha Yasmeen, Law Officer

For the Respondent(s) : NR

Date of Hearing : 25.09.2024

ORDER

Shahid Waheed, J: The Government of Punjab has submitted this petition under Article 212(3) of the Constitution, seeking leave to appeal against the judgment of the Punjab Service Tribunal, Lahore (**“the Tribunal”**) announced on 27th of March, 2023. The Tribunal had granted the service appeal of the respondent under Section 4 of the Punjab Service Tribunals Act, 1974. Before determining whether there is a substantial question of law of public importance in this petition that justifies granting leave, there is a preliminary legal issue that needs to be addressed first. This issue concerns whether, considering the circumstances of the case, this petition was filed within the specified time limit.

2. According to the Office Note, the petition is late by 98 days. The Additional Advocate General, Punjab has disputed this position and argued that the petition was submitted within the stipulated time frame. He emphasised that the Tribunal announced the judgment on 27th of March, 2023 and in pursuance of its direction, the Registrar of the Tribunal dispatched a copy of the judgment to the concerned departmental authority vide letter No.1773-Judicial dated 7th of July, 2023, and it was received on 19th of July, 2023, which is 114 days after the judgment was delivered. The petition was filed on the 1st of September, 2023, which is 158 days after the judgment was announced and 44 days after the receipt of the copy of the judgment by the Tribunal. Given that the time limit for such petitions is 60 days, the petition will be considered within the permissible time frame under these circumstances.

3. Now, we proceed to examine whether the argument made to justify the petition being filed within the time limit is well founded. It is correct that the Tribunal's judgment included a specific direction for its office to send a copy of the order to the relevant departmental authority. However, it is important to note that this direction was given following Rule 21 of the Punjab Service Tribunals (Procedure) Rules, 1975 ("**Rules, 1975**"), which mandates that a copy of every order of final adjudication on an appeal must be provided by a Tribunal, free of costs, to the competent authority. This direction does not determine the period of limitation. To find out the period of limitation for filing a petition for leave to appeal under Article 212(3) of the

Constitution and how it is computed, we need to consult the relevant law, which is the Supreme Court Rules, 1980 (**"Rules, 1980"**). Rule 1 of Order XXIV, read with Rule 1 of Order XIII of the Rules, 1980 prescribes a 60-days period for filing a petition for leave to appeal under Article 212(3) of the Constitution. Furthermore, Rule 4 of Order I of the Rules, 1980, states that the computation of any particular number of days should be by the provisions of the Limitation Act, 1908 (**"Act, 1908"**). This means that Section 12 of the Act, 1908, which governs the computation method of the limitation period for filing a petition for leave to appeal in the Supreme Court, is applicable, *inter alia*, in service matters. Section 12 of the Act, 1908 outlines the method of computation of the period of limitation prescribed in the following terms:

" 12. Exclusion of time in legal proceedings. (1)
(2) In computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for a review of the judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be reviewed, shall be excluded.
(3).....
(4).....
(5)..... "

4. The Government of Punjab filed the petition in the present case on the 1st of September 2023, which was 158 days after the announcement of the judgment and 44 days after receipt of the certified copy of the judgment sent by the Tribunal. Based on these facts, the Additional Advocate General sought to argue, as we understood, that the period of 114 days (spent on receiving the said judgment by the Department) has to be deducted from 158 days as required by Section 12 of the Act, 1908 and as such, the

appeal, which was filed after 44 days of the receipt of the certified copy of the judgment, was well within the prescribed time. We prefer not to subscribe to this argument. The period for filing a petition for leave to appeal under Article 212(3) of the Constitution is computed from the date when the Tribunal's judgment is announced in the presence of the parties, not from the date of receiving the certified copy of the judgment. According to Section 12 of the Act, 1908, only the time taken to obtain a certified copy of the judgment appealed from can be deducted. The Act, 1908, does not take into account the time it takes for the Tribunal to send a copy of the judgment, which is announced in the presence of the parties, to the Department. It is important to note that Rule 21 of the Rules, 1975 does not specify a time frame for the Tribunal to send a copy of the judgment to the relevant competent authority after announcing it. This means that the Tribunal can send the judgment to the Department after the deadline for applying for leave to appeal has passed. In this situation, allowing this time to be excluded in the computation of the limitation period would potentially give the Department/Competent Authority the ability to create uncertainty about the rights of Civil Servants that have been established by the Tribunal and have become final over time. This could be unwholesome and violate the fair trial rights guaranteed under Article 10-A of the Constitution. Therefore, the provisions of Rule 21 of the Rules, 1975 do not apply to this case. Consequently, the petitioner cannot benefit from it, especially since the petitioner did not argue that the

Tribunal did not announce the judgment in the presence of the parties.

5. It is important to consider another aspect of this matter. The Tribunal announced its judgment in the presence of the parties on the 27th of March, 2023. The Department applied for a certified copy of the judgment on the 25th of August, 2023, and received it the same day. However, the petition for leave to appeal was filed on the 1st of September, 2023. Based on the timeline, it appears that the petition was filed after the allowable time limit, as it had become barred by time when the petitioner applied for the certified copy of the judgment.

6. The conclusion of the discussion above is that the cause provided by the petitioner for seeking extension of the deadline to file the petition is insufficient. Therefore, the application (*CMA No.3673 of 2023*) for condonation of delay is dismissed as lacking merit. Consequently, the main petition also stands dismissed due to being filed after the prescribed time.

Judge

Judge

Judge

Islamabad
25.09.2024
APPROVED FOR REPORTING
Rashid*/